Carl Schurz and Samuel Gompers, E. L. Godkin, of the Nation, and Felix Adler, of the Ethical Culture Society, Jane Addams, of Hull House, and President Jordan, of Stanford University, and Andrew Carnegie and scores of others. And when the defenders of the war raised the cry "Don't haul down the flag," it was no other than William Jennings Bryan, titular head of the Democratic Party, who asked, "Who will haul down the President?"

We need not decide now whether those who protested this war were right or wrong. It is sufficient to remember that we honor Mark Twain and William James, regard Jane Addams as one of the greatest of American women, and still read Godkin, and that Bryan is somewhat better remembered than William McKinley. Those infatuated patriots who now assert that it is somehow treasonable to criticize any policy that involves Americans in fighting overseas would do well to ponder the lessons of the Philippine war.

But, it will be said, as it is always said, this war is different. Whether history will judge this war to be different or not, we cannot say. But this we can say with certainty: a government and a society that silences those who dissent is one that has lost its way. This we can say: that what is essential in a free society is that there should be an atmosphere where those who wish to dissent and even to demonstrate can do so without fear of recrimination or vilification.

What is the alternative? What is implicit in the demand, now, that agitation be silenced, that demonstrators be punished? What is implicit in the insistence that we "pull up by the roots and rend to pieces" the protests from students—it is Senator STENNIS we are quoting here. What is implicit in the charge that those who demonstrate against the war are somehow guilty of treason?

It is, of course, this: that once our Government has embarked upon a policy there is to be no more criticism, protest, or dissent. All must close ranks and unite behind the Government.

Now we have had a good deal of experience, first and last, with this view of the duty of the citizen to his government and it behooves us to recall that experience before we go too far astray.

We ourselves had experience with this philosophy in the ante bellum South. The dominant forces of southern life were, by the 1840's, convinced that slavery was a positive good, a blessing alike for slaves and for masters; they were just as sure of the righteousness of the "peculiar institution" as is Senator DODD of the righteousness of the war in Vietnam. And they adopted a policy that so many Senators now want to impose upon us: that of silencing criticism and intimidating critics. Teachers who attacked slavery were deprived of their posts—just what Mr. Nixon now advises as the sovereign cure for what ails our universities. Editors who raised their voices in criticism of slavery lost their papers. Clergymen who did not realize that slavery was enjoined by the Bible were forced out of their pulpits. Books that criticized slavery were burned. In the end the dominant forces of the South got their way: critics were silenced. The South closed its ranks against critics, and closed its mind; it closed, too, every avenue of solution to the slavery problem except that of violence.

Nazi Germany provides us with an even more sobering spectacle. There, too, under Hitler, opposition to government was equated with treason. Those who dared question the inferiority of Jews, or the justice of the conquest of inferior peoples like the Poles, were effectually silenced, by exile or by the the gas chamber. With criticism and dissent eliminated, Hitler and his followers were able to lead their nation, and the world, down the path to destruction.

There is, alas, a tragic example of this attitude toward criticism before our eyes, and in a people who inherit, if they do not cherish, our traditions of law and liberty. Like the slaveocracy of the Old South, the dominant leaders of South Africa today are convinced that whites are superior to Negroes, and that Negroes must not be allowed to enjoy the freedoms available to whites. To maintain this policy and to silence criticism—criticism coming from the academic community and from the press—they have dispensed with the traditions of due process and of fair trial, violated academic freedom, and are in process of destroying centuries of constitutional guarantees. And with criticism silenced, they are able to delude themselves that what they do is just and right.

Now, it would be absurd and iniquitous to equate our current policies toward Vietnam with the defense of slavery, or with Nazi or Afrikaner policies. But the point is not whether these policies have anything in common. The point is that when a nation silences criticism and dissent, it deprives itself of the power to correct its errors. The process of silencing need not be as savage as in Nazi Germany or in South Africa today; it is enough that an atmosphere be created where men prefer silence to protest. As has been observed of book burning, it is not necessary to burn books, it is enough to discourage men from writing them.

It cannot be too often repeated that the justification and the purpose of freedom of speech is not to indulge those who want to speak their minds. It is to prevent error and discover truth. There may be other ways of detecting error and discovering truth than that of free discussion, but so far we have not found them.

There is one final argument for silencing criticism that is reasonable and even persuasive. It is this: that critics of our Vietnam policy are in fact defeating their own ends. For by protesting and agitating, they may persuade the Vietcong, or the North Vietnamese, or the Chinese, that the American people are really deeply divided, and that if they but hold out long enough the Americans will tire of the war and throw in the sponge. As there is in fact no likelihood of this, the critics are merely prolonging the agony of war.

These predictions about the effect of criticism in other countries are, of course, purely speculative. One thing that is not mere speculation is that American opinion is, in fact, divided; that's what all the excitement is about. We do not know how the Vietcong or the Chinese will react to the sounds of argument coming across the waters. Perhaps they will interpret criticism as a sign of American weakness. But perhaps they will interpret it as an indication of our reasonableness. And assuredly they will, if they have any understanding of these matters at all, interpret it as a sign of the strength of our democracy—that it can tolerate differences of opinion.

But there are two considerations here that invite our attention. First, if critics of our Vietnamese war are right, then some modification of our policy is clearly desirable, and those who call for such modification serve a necessary purpose. We do not know whether they are right or not. We will not find out by silencing them. Second, if government, or those in positions of power and authority, can silence criticism by the argument that such criticism might be misunderstood somewhere, then there is an end to all criticism, and perhaps an end to our kind of political system. For men in authority will always think that criticism of their policies is dangerous. They will always equate their policies with patriotism, and find criticism subversive. The Federalists found criticism of President Adams so subversive that they legislated to expel critics from the country. Southerners found criticism of slavery so subversive that they drove critics out of the South. Attorney General Palmer thought criticism of our Siberian misadventure—now remembered only with embarrassment—so subversive that he hounded the critics into prison for 20-year terms. McCarthy found almost all teachers and writers so subversive that he was ready to burn down the libraries and close the universities. Experience should harden us against the argument that dissent and criticism are so dangerous that they must always give way to consensus.

And as for the argument that criticism may give aid and comfort to some enemy, that is a form of blackmail unworthy of those who profess it. If it is to be accepted, we have an end to genuine discussion of foreign policies, for it will inevitably be invoked to stop debate and criticism whenever that debate gets acrimonious or the criticism cuts too close to the bone. And to the fevered mind of the FBI, the CIA, and some Senators, criticism always gives aid and comfort to the enemy or cuts too close to the bone.

"The only thing we have to fear," said Franklin Roosevelt, "is fear itself." That is as true in the intellectual and the moral realm as in the political and the economic. We do not need to fear ideas, but the censorship of ideas. We do not need to fear criticism, but the silencing of criticism. We do not need to fear excitement or agitation in the academic community, but timidity and apathy. We do not need to fear resistance to political leaders, but unquestioning acquiescence in whatever policies those leaders adopt. We do not even need to fear those who take too literally the anguished pleas of a Pope Paul VI or the moral lessons of the Sermon on the Mount, but those who reject the notion that morality has any place in politics. For that, indeed, is to stumble and sin in the dark.

THE WAR IN VIETNAM

Mr. LONG of Louisiana. Mr. President, I know that Senators are troubled about the international crisis that this Nation faces, and they are certainly privileged to speak out and express their views. I concede that right. However, it somewhat dismays me to hear our Nation accused of being an aggressor, engaged in all sorts of illegal, corrupt conduct in the world. That is not the case. I am proud of this great Nation. I support my Nation. I support the President, who is our Commander in Chief.

On January 27, 2 days ago, I placed in the CONGRESSIONAL RECORD, beginning at page 1236, the argument which the overwhelming majority of international lawyers believe to be correct: that is, that this Nation, on 125 occasions, including the War of Independence, has gone to war, has sent our forces into action, prior to a declaration of war.

When we were attacked at Pearl Harbor, we did not wait for a declaration by Congress. We had to start defending ourselves by attacking those who attacked us. General MacArthur did not wait for a declaration of war, but sent his troops into action in the Philippines.

In World War II, President Roosevelt ordered the Navy, when it came upon German submarines, not to wait for a declaration of war, but to attack. The famous message came in from an American destroyer: "Sighted sub; sank same." I recently referred to a state-

ment by 25 of the most outstanding professors of international law, including professors from Harvard and Yale, and various other outstanding universities, all of whom agreed that such a procedure was correct.

The 125 examples I cited were taken from a memorandum prepared for the Committee on Armed Services and the Committee on Foreign Relations at the time we were discussing whether President Truman was correct in relieving General MacArthur of his duties in Korea. That was the conclusion of the document. No one argued that that was not the prevailing view.

When our ships were attacked in the Gulf of Tonkin, we knew what our ships were doing there. They were there to help the people of South Vietnam and to help the Government of South Vietnam defend itself. We were providing them with various communications assistance which we thought they needed. When our ships were attacked, we struck back. We committed an act of war, well knowing that that was what we were doing. We blasted the harbors from which the North Vietnamese torpedo boats had come.

The American people rose up in enthusiastic acclaim and support of the President. The President went before the people, and the people had a chance to vote on whether they wanted him to continue after that. The people gave the President a 15 million majority vote.

I am frank to say that the President's opponent, who was at that time the distinguished senior Senator from Arizona, Mr. Goldwater, took the same view; namely, that we not only should have done what was done, but should have gone further in fighting the aggressors of North Vietnam.

Congress adopted a resolution not only approving what the President did, but approving whatever measures he might deem necessary to defeat North Vietnamese aggression. The action the President is taking is in furtherance of an act of war that had been committed by this Nation under the powers of the Commander in Chief.

Congress stated that it approved such further acts of war as the President might deem necessary. In some respects, that resolution is a declaration of war. It gave affirmative approval for the President of the United States, the Commander in Chief, to engage our enemy in warfare, understanding that that was exactly what the resolution meant. So let us understand that we are at war right now. That is what our boys are there for.

The United States is in South Vietnam in pursuance of a resolution that Congress adopted, only two Senators voting against it. Since that resolution was adopted, the Senate has been treated to at least one speech a week by those two Senators, or at least one of them.

Some of us are proud of our great country, proud of our boys who are fighting for freedom. We are proud of them, and we are proud of our President. We are proud of the President's action to resist aggression.

A large number of Senators harbor inward fears and doubts about what is taking place. But Senators might as well face up to the fact that we live in a dangerous world. Any time the Soviet Union decides that it wants to make war on this country, it can do so and inflict great damage upon this Nation. If they deem the time to be ripe, they may well decide to attack us at such time as they may choose. But so far, we have convinced them of our determination to fight for freedom.

This nation will fight whenever we must. We engaged in acts of warfare and turned back the Russian ships when they sought to go into Cuba.

We must recognize that the Soviet Union might some day seek to make war on this great Nation. However, we have the weapons we need with which to fight them if that happens, and that is one reason that nothing occurred.

We know very well that the Chinese Communists may decide to engage in warefare against this country at any time. That is not too likely to occur now. What we had better be worried about is not what the Communist Chinese might do now, but rather what they might do 5 years from now when Red China has built up its atomic potential. We shall then have a real threat directed at us.

If Red China decides that she wants to come into the situation in Vietnam today, she can come in at any time she wishes.

Red China will not be worried about the men she might lose or the men that we might lose. That nation will be more concerned about the danger inherent in whether this Nation will seek on that occasion to destroy Communist China as an atomic power. That is something for them to think about.

We are committed. Our forces are there. We cannot let one little Communist power, consisting of 16 million people, run the greatest power on the face of the earth out of there when we are committed to defend the people.

I applaud the President for the action he has taken. I do not envy him. He has a very difficult job. I would not want to have his job and be subject to all the burdens and pressures which are exerted upon a President.

When we disagree with him, we should not make speeches available for the Communists to spread around behind the Iron Curtain unless we first communicate with the President and tell him what we suggest about the matter, and, only in the event that he does not heed our suggestions, should we communicate with him through the Nation's press. Such conduct encourages the Communists to think that if they will continue this action, continue to kill some of our American boys, and continue to kidnap our people and chop their heads off we will lose heart and surrender.

The American people are not that kind of people. We can unite behind our Commander in Chief in time of war. We are doing that.

We have been very fortunate to have good national leaders in times of danger. I am proud that we have the present President of the United States.

PROPOSED REPEAL OF SECTION 14(b) OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The Senate resumed the consideration of the motion of the Senator from Montana [Mr. MANSFIELD] that the Senate proceed to the consideration of the bill (H.R. 77) to repeal section 14(b) of the National Labor Relations Act, as amended, and section 703(b) of the Labor-Management Reporting Act of 1959 and to amend the first proviso of section 8(a)(3) of the National Labor Relations Act, as amended.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. EASTLAND. Mr. President, once again the well of this historic assembly has become the scene of one of the great national debates of our time; a contest involving a basic, fundamental issue that goes to the very root of a free society; a struggle between two irreconcilable principles which are of their very nature so repugnant and contradictory to each other as to be insusceptible of compromise. For the basic issue before the Senate is simply a conflict between the idea of individual liberty and freedom of association versus the concept of compulsory unionization and involuntary regimentation of the American workingman.

Mr. President, the right-to-work issue was presented to the people of Mississippi on June 7, 1960, in the form of a constitutional amendment. On that date, after a full, free, and fair debate, the people of my State voted to place the right-to-work law in their constitution by an overwhelming vote of 105,724 to 47,461. Section 198–A of the Mississippi Constitution now reads as follows:

Section 198-A: It is hereby declared to be the public policy of Mississippi that the right of a person or persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization. Any agreement or combination between any employer and any labor union or labor organization whereby any person not a member of such union or organization shall be denied the right to work for an employer, or whereby such membership is made a condition of employment or continuation of employment by such employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be an illegal combination or conspiracy and against public policy. No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer. No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment. No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees, or other charges of any kind to any labor union or labor organization. Any person who may be denied employment or be deprived of continuation of his employment in violation of any paragraph of this section shall be entitled to recover from such employer and from any other person, firm, corporation, or association acting in concert with him by appropriate action in the courts of this State such actual damages as he may have sustained by reason of such denial or deprivation of employment.

The provisions of this section shall not apply to any lawful contract in force on the effective date of this section, but they shall apply to all contracts thereafter entered into and to any renewal or extension of an existing contract thereafter occurring. The provisions of this section shall not apply to any employer or employee under the jurisdiction of the Federal Railway Labor Act.

Our people are proud to be counted as one of the 19 States where the concept of individual liberty has prevailed in the confrontation with compulsory, involuntary unionization, and regimentation, and we resent this effort to deprive us of our choice.

Simply stated, right-to-work laws provide protection so that the inherent right of an individual to secure and hold a job shall not be abridged by any union security agreement entered into by the employer and the union. Perhaps more properly stated, voluntary unionism employs a concept of human liberty quite as individual as freedom of speech, religion, or assembly. By the enactment of 14(b) the Congress of the United States recognized and preserved to the citizens of the several States the right, if they so desired, to enact legislative statutes or constitutional amendments which would protect the freedom of choice of their individual citizens so that their very jobs and livelihood could not be placed in jeopardy through compulsion as a result of any agreement entered into by an aggressive union and an acquiescent employer. I submit that the principle of voluntary unionism is not open to compromise. A person must believe in the freedom of individual choice or must accede to the view that it is proper to shackle the will of the unwilling employee through compulsive union devices.

A typical right-to-work law provides that an employee has the right to either join or refrain from joining a labor union. In 19 States laws are in effect whereby contracts requiring union membership as a condition of employment are unenforcible. The language which has been adopted by either enactment by the State legislatures or by an amendment to the State constitution is framed in a tenor similar to the following: "Any agreement or combination between any employer and any labor union organization whereby persons not members of such unions shall be denied the right to work by the employer or whereby such membership is made a condition of employment or continuation of employment by such employer or whereby any such union acquires an employment monopoly in any enterprise is hereby declared to be against public policy and an illegal combination or conspiracy."

Section 14(b) is a part of the Labor Management Relations Act which was passed by an overwhelming majority in 1947. In amending the 1935 Wagner Act in a variety of areas, the Congress, in Taft-Hartley, added section 14(b) to make certain the States would continue to be free to enact right-to-work laws and to enforce those enacted prior to the passage of Taft-Hartley. At the time the final version of Taft-Hartley was worked out, the conference committee, in a conference report on the bill, explained the purpose of 14(b) as:

Many States have enacted laws or adopted constitutional provisions to make all forms of compulsory unionism in those States illegal. It was never the intention of the National Labor Relations Act (the Wagner Act) as its legislative history discloses, to preempt the field in this regard so as to deprive the States of their powers to prevent compulsory unionism. Neither the existing act nor the conference agreements could be said to authorize arrangements of this sort in States where such arrangements were contrary to State policy.

When the Taft-Hartley law was passed, 13 States had statutes which prohibited the closed shop—that is, a form of labor-management agreement under which an employee is required to be a union member in his State in order to obtain a job or to retain that job after he gets it. Four States permitted the closed shop only after specific approval by employees in an election. Section 14(b) reads as follows:

Nothing in this act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or territory in which such execution or application is prohibited by State or territorial law.

Essentially, the right-to-work statutes make it unlawful to deprive a person of a job because he does not belong to a union, or conversely, because he does belong to a union. They also make it unlawful for an employer to enter into agreement with a union to make membership in such union a condition of employment. In other words, they insure the right to work with or without union membership. Consequently, the only issue involved is one of compulsory unionism, in that employees are to be forced to join a union in order to hold a job.

One would immediately conclude that within the democratic process of this great Nation, the United States, that there could be no argument against a man's basic right to work without being forced to join a union or without being compelled to refrain from joining a union. Certainly, Mr. President, the existence of any contrary position would seem to be contrary to and in violation of the basic principles and tenets of our constitutional government which provides for and genuinely befits a great and free society which all our citizens enjoy. Strangely enough, the union officers over a period of many years since the passage of the right-to-work law have directed a continuing assault toward the elimination and repeal of this legislative safeguard. This is a curious thing—the more so because all their objections seem not to succeed in hiding what appears to be their one real fear; namely, that when unionism is placed on a voluntary basis, they must get their new members on the basis of meriting the employees' support.

This as we know it, Mr. President, is the way that every other organization in this country operates. You sell a man on the value of membership, and then you keep him sold by performing for him a useful service. It is, therefore, easy to see that union leaders could become beset with concern relative to this aspect. Over the years, closed shop and union shop contracts have made the organizer's job easy. The new employee must accept union membership along with his new job. If he fails to pay dues, he is discharged. It would seem that unions are frequently fearful to test their true value to employees by giving men and women what should be an inalienable American right to refuse to join if they wish not to do so.

Under the Wagner Act passed in 1935 unions were able through closed shop contracts to force employers to hire union members only. This law gave union officials a monopoly of labor whereby they could dominate their members, dictate to employers, challenge the Government to a point of paralyzing the national economy. Union members who disobeyed the edict of union officers frequently suffered economic resprisals. They not only lost their current job, but frequently their right to another job. Such shocking abuses were disclosed that the elected representatives of the people by overwhelming vote in both Houses of the Congress outlawed the closed shop in 1947, and permitted the States to outlaw compulsory unionism in any form under the authority of 14(b).

The ninth amendment to the Constitution of the United States reads that the "enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

The Declaration of Independence proclaimed to the world the "self-evident" truths "that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness."

The Declaration of Independence, it should be noted, was careful to state that liberties and human rights were not man made. Their source was not governmental; rather they were endowed by the "Creator" of all men. John Adams, our second President, assured the people:

You have rights antecedent to all earthly governments; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe.

This basic concept of individual sovereignty and liberty was absolute in the theory of American Government from the very beginning and was not granted by the Constitution.

The ninth amendment is a basic statement of the inherent rights of the individual. See Patterson, "The Forgotten Ninth Amendment," Bobbs-Merrill, 1955. On its face it declares there are unenumerated rights that are retained by the people, as a group and individually. Individual freedom is the basis of our democracy and is the virtue which marks ours over other forms of government. Liberty, or freedom, is the equivalent of the right to live, worship, work, and pursue happiness as an individual. Liberty and freedom, I believe, include the right of opportunity to seek, secure, and retain

employment free of any form of compulsion to join or pay tribute to any private organization. This is one of the inalienable rights with which individuals "are endowed by their Creator." As such, I submit, it is preserved by the ninth amendment and protected by it, at least against any denial or disparagement by a State or by the Congress.

In discussing the Bill of Rights before the first Congress, James Madison, the father of the Bill of Rights and author of the ninth amendment, warned the people:

The prescriptions in favor of liberty ought to be leveled against that quarter where the greatest danger lies, namely, that which possesses the highest prerogative of power. But this is not found in either the executive or legislative department of the Government, but in the body of the people, operating by the majority against the minority. But I confess that I do conceive that in a government modified like this of the United States, the great danger lies rather in the abuse of the community, than in the legislative body. (Gales and Seaton's "Annals of Congress.")

Fears of excesses in Government led to the Bill of Rights. Fears of excesses by a majority of the community led to the ninth amendment. The highest duty the Supreme Court can perform is the protection of individual liberty and freedom. Conscience compels it and the ninth amendment demands it.

Freedom of association is a composite of rights under the first amendment, particularly freedom of speech and of assembly. This right springs from the liberty of the individual to live his life as he sees fit, to choose where he will seek to work, and freely to choose what, if any, private organizations he will seek to join or refrain from joining.

Mr. President, freedom of association is a fundamental right and was recognized as such by the Supreme Court in *NLRB* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1, 33 (1937). There the Court pointed out that the purpose of that statute was to "safeguard the right of employees to self-organization." It then added:

"That is a fundamental right. Employees have as clear a right to organize and select their representatives for lawful purposes as the respondent has to organize its business and select its own officers and agents.

In *Thomas* v. *Collins*, 323 U.S. 516 (1945), the Supreme Court considered a Texas statute requiring union organizers to register and obtain a card before soliciting members. The Court ruled that the Texas statute violated the 14th amendment's protections of freedom of speech and assembly. Said the Court:

As a matter of principle a requirement of registration in order to make a public speech would seem generally incompatible with an exercise of the rights of free speech and assembly * * *. And the right either of workmen or unions under these conditions to assemble and discuss their own affairs is as fully protected by the Constitution as the right of businessmen, farmers, educators, political party members or others to assemble and discuss their affairs and to enlist the support of others, 323 U.S. at 539.

Finally the Court stated:

There is some modicum of freedom of thought, speech and assembly which all citizens of the Republic may exercise throughout its length and breadth, which no State, nor all together, nor the Nation itself, can prohibit, restrain or impede, 323 U.S. at 543.

The right to join a labor organization is not in question here. The right to join has been established. What is in question here is the right not to join—the right not to be compelled to become a member of a labor organization as a condition of continued employment.

The right not to join is a necessary corollary to the fundamental right to join for without the right to refrain from joining, there can be no true right to join. If this corollary right does not exist, then employees have no freedom of association. All that remains to them is the freedom to be coerced by the majority, whether of a labor organization or the community in which they live. I believe, Mr. President, that freedom not to associate is as much a part of freedom of assembly and association as the freedom to remain silent is a part of the freedom of speech, a right which becomes wholly inviolable when it is sought to compel one to utter that which he does not believe.

The Supreme Court has consistently recognized that the right to work for a living is a fundamental right possessed by all people. Most of the decisions have dealt with issues raised under the 14th amendment. The principles expressed are equally applicable to the fifth amendment, however, *Coolidge* v. *Long*, 282 U.S. 582 (1931); *Twining* v. *New Jersey*, 211 U.S. 78 (1908).

In *Truax* v. *Raish*, 239 U.S. 33, 41 (1915), Mr. Justice Hughes, speaking for the Court, put the basic proposition very simply when he said:

It requires no argument to show that the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity it was the purpose of the amendment to secure.

In that case the Court held void an Arizona statute requiring employers of five or more persons to employ 80 percent U.S. citizens on the ground that such a law violated the 14th amendment.

In *Smith* v. *Texas*, 233 U.S. 630, 636 (1914), a Texas statute made it a misdemeanor for any person to act as a conductor on a railway train in that State without first having served for 2 years as a freight conductor or brakeman. The Court held this to be an infringement of the liberty of contract contrary to the 14th amendment. The Court said, in part:

Life, liberty, property, and the equal protection of the law, grouped together in the Constitution, are so related that the deprivation of any one of those separate and independent rights may lessen or extinguish the value of the other three. Insofar as a man is deprived of the right to labor, his liberty is restricted, his capacity to earn wages and acquire property is lessened, and he is denied the protection which the law affords those who are permitted to work. Liberty means more than freedom from servitude, and the constitutional guaranty is an assurance that the citizen shall be protected in the right to use his powers of mind and body in any lawful calling.

Meyer v. *Nebraska*, 262 U.S. 390, 399 (1923), involved a conviction under a Nebraska statute which made it a crime to teach a foreign language to a child who had not completed the eighth grade. Holding the statute abridged the 14th amendment, the Court said:

While this Court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men.

Finally, in *Adams* v. *Tanner*, 244 U.S. 590, 593 (1917), the Supreme Court quoted Shylock in the "Merchant of Venice":

You take my house when you do take the prop that doth sustain my house; You take my life when you do take the means whereby I live.

The worker, impaled on the horns of the dilemma whether to abide by his principles and forfeit his employment under a union shop contract or abandon his principles and submit to the unwanted obligations of union membership, might well exclaim: "You take my life when you do take the means whereby I live." I submit that the Constitution of the United States protects him in his right to work and that he need not submerge his principles, ideals, liberties, and freedoms to avoid economic suicide. The Nebraska Supreme Court summarized correctly and succinctly the principles established by the U.S. Supreme Court when it held in the Hanson case, 160 Nebr. 669, 71 NW 2d 526:

We also think the right to work is one of the most precious liberties that man possesses. Man has as much right to work as he has to live, to be free, to own property, or to join a church of his own choice, for without freedom to work the others would soon disappear. It is a fundamental human right which the due process clause of the fifth amendment protects from improper infringement by the Federal Government. To work for a living in the occupations available in a community is the very essence of personal freedom and opportunity that it was one of the purposes of these amendments to make secure. Liberty means more than freedom from servitude. The Constitution guarantees are our assurance that the citizen will be protected in the right to use his powers of mind and body in any lawful calling.

ARGUMENT ADVANCED BY THE ADMINISTRATION IN SUPPORT OF 14(b) REPEAL

What reason is advanced by the administration in support of this reckless power play which threatens one of the last significant vestiges of State sovereignty in the area of labor relations; challenges the very concept of individual liberty; and promises to upset that delicate, tripartite balance of power between labor, management, and employee. The sole argument upon which they elect to stand, the exclusive premise upon which they base their conclusion that 14(b) should be repealed, is the so-called need for conformity in our national labor policy.

In the President's 1965 state of the Union address, repeal of 14(b) was advocated "with the hope of reducing conflicts in our national labor policy that for several years have divided Americans in various States" and again in the President's address of 1966 "to make the labor laws in all our States equal to the labor laws of the 31 States which do not have tonight right-to-work measures."

This same, simple, sterile theme has been parroted to the Congress by Secretary Wirtz:

The issue here is whether a uniform national labor policy should be established in this area (section 14(b)) as it exists in all other areas covered by the National Labor Relations Act. I urge that, whatever may have been the justification 18 years ago for letting the States experiment in this area, experience since that time has shown that there is no longer a good reason for this course of action.

It is likewise interesting to note that only one-half page of the 46-page Senate report accompanying H.R. 77 is devoted to the majority explanation as to the reason for the repeal of 14(b). The only reason stated is found in this simple and obviously inadequate comment:

The sole purpose of H.R. 77 is to establish a uniform Federal rule governing union security arguments.

That the administration should even advance such an argument in support of a major legislative proposal, much less elect to premise its entire position upon it, is ample evidence of desperation with which they seek to justify this cause.

Our national labor policy and laws are fraught with nonconformity in every area. Section 14(c) of the Fair Labor Standards Act allows States to legislate in areas where the NLRB has declined to take jurisdiction. Workmen's compensation and unemployment compensation laws vary from State to State. Section 603(a) of the Landrum-Griffin Act preserves State laws regulating the actions of union officials. Yes, Mr. President, the examples may be cited ad infinitum.

But we are now told that the "conformity" of compulsory unionization is "needed" to avoid "conflicts in our national labor policy." Thus "necessity" and "conformity" become the two pillars upon which the proponents elect to rest their case for repeal of 14(b). This will not be the first time these two principles of expediency have been advanced to excuse a proposal which is of its very nature, inexcusable, indefensible, and unconscionable.

I seem to recall that line from Milton's "Paradise Lost":

And with necessity, the tyrant's plea, excus'd his devilish deeds.

I recall that William Pitt once told the English Parliament that:

Necessity is the argument of tyrants, it is the creed of slaves.

While the idea that the subordination of individual liberty to uniform national policy may be accepted by the docil and enslaved, it is not accepted by free Americans.

Mr. ERVIN. Mr. President, will the Senator yield for several questions relevant to the statement he has just made?

Mr. EASTLAND. I yield for that purpose.

Mr. ERVIN. Is not the fundamental objection to union shop agreements that they deny supposedly free Americans their right to make a decision which vitally affects them during all their working hours, and, indeed, after their working hours?

Mr. EASTLAND. My friend is certainly right. The right of decision is certainly a major ingredient of human freedom.

Mr. ERVIN. Does not the Senator from Mississippi agree with the Senator from North Carolina that during a previous generation some employers compelled their employees, as a condition precedent to being granted employment, to enter into a contract which required them to agree not to join a union during the term of their employment?

Mr. EASTLAND. That is correct.

Mr. ERVIN. Does not the Senator from Mississippi agree with the Senator from North Carolina that the labor unions called such agreements imposed upon the employees by the employers "yellow dog" contracts?

Mr. EASTLAND. It was a "yellow dog" contract, which has been outlawed.

Mr. ERVIN. Does not the Senator from Mississippi agree with the Senator from North Carolina that the labor unions called such contracts "yellow dog" contracts because they denied the employee the freedom of choice to join or refrain from joining unions of their own free choice?

Mr. EASTLAND. I agree with the Senator from North Carolina. I think it was a form of enslavement. That is what we now face from the other side.

Mr. ERVIN. Is the Senator from North Carolina correct in construing the argument of the Senator from Mississippi to be that a union shop contract which could be imposed upon employees at the request of the union is another form of "yellow dog" contract in that it does identically the same thing that the old "yellow dog" contracts imposed on employees did—that is, it denies the employee the freedom to stand on his own feet and decide for himself, with his God-given faculties, whether he would or would not join a union?

Mr. EASTLAND. That is correct.

Mr. ERVIN. Does not the Senator from Mississippi agree with the statement made by William Pitt that necessity is the argument for every infringement of liberty? Does it not illustrate that unions want vast power over the lives of all the working men and women in the United States, powers which would deny the working people of the United States their God-given right to decide for themselves, with their own God-given faculties, whether they wish to join or refrain from joining a union?

Mr. EASTLAND. The Senator is correct.

Mr. ERVIN. I ask the Senator from Mississippi if the State right-to-work laws, which the bill to repeal section 14(b) of the Taft-Hartley Act would nullify, would do anything more than merely give to each American who, in the words of Scripture, is compelled to eat his bread in the sweat of his own brow, the right to decide for himself whether he will or will not join a union and will or will not pay dues to a union? Is not that what the right-to-work laws provide?

Mr. EASTLAND. Certainly.

Mr. ERVIN. I ask the Senator from Mississippi if the right-to-work laws deny to a union the right and power to have every employee in any factory or in any industry pay dues as members of a union if they are able to persuade them that their welfare would be promoted by their joining the union.

Mr. EASTLAND. They are still free to make the decision whether to join or not. They are still free to make the decision whether their interests would be enhanced by joining or not joining. There is nothing in those laws that deprives them of an ingredient of liberty.

Mr. ERVIN. Do not the right-to-work laws entirely protect the right of an employee to be persuaded by a union to join voluntarily?

Mr. EASTLAND. Certainly.

Mr. ERVIN. I should like to ask the Senator from Mississippi if in leaving that right to a union to persuade members to join their union voluntarily, the right-to-work laws leaves to workers the same fredom to join voluntarily that the various religious bodies use to have members join their church; namely, to persuade them that they should join the church of the living God.

Mr. EASTLAND. Certainly.

Mr. ERVIN. Can the Senator from Mississippi see anything wrong in saying to a labor union, "You shall obtain your members by persuasion"? That is, in the same manner in which the churches of the living God obtain their members.

Mr. EASTLAND. I agree.

Mr. ERVIN. Does not the Senator from Mississippi believe that it is placing the unions in very fine company when the right-to-work law provides that the unions can and must obtain their members in the same way as churches and other voluntary associations obtain their members?

Mr. EASTLAND. I agree with the Senator. The idea of compulsion is not American.

Mr. ERVIN. And does not the Senator from Mississippi agree with the Senator from North Carolina that the union shop agreement is a compulsory procedure designed to graft membership into unions by men who do not wish to belong to unions?

Mr. EASTLAND. Of course. It means that a man joins a private organization against his will. If that is Americanism, I have lost contact.

Mr. ERVIN. Is not the Senator from Mississippi aware of the fact that several years ago Congress passed an act which provided, among other things, that no Communist could occupy an office in a union? Does not the Senator from Mississippi recall that?

Mr. EASTLAND. The Senator is correct.

Mr. ERVIN. Is it not true that some months ago the Supreme Court held that that act constituted an unconstitutional

bill of attainder under the Constitution and was, therefore, invalid?

Mr. EASTLAND. The Senator is correct.

Mr. ERVIN. I will ask the Senator from Mississippi if it is not true that, as a result of that decision of the Supreme Court, a union shop agreement may compel loyal Americans to become involuntary dues-paying members of unions whose officers are Communists, and whose officers are disloyal, not only to those loyal Americans, but also to our country?

Mr. EASTLAND. The Senator is correct. My information is that that condition prevails in a number of States today. I do not want it to be spread all over the country, as it would be if the pending bill were passed.

Mr. ERVIN. Mr. President, I thank my good friend the Senator from Mississippi for yielding and for answering these questions.

Mr. EASTLAND. As stated by that learned jurist, the Honorable Learned Hand:

> That community is already in the process of dissolution * * * where nonconformity with the accepted creed, political as well as religious, is a mark of disaffection; where denunciation, without specification or backing, takes the place of evidence; where orthodoxy chokes freedom of dissent; where faith in the eventual supremacy of reason has become so timid that we dare not enter our convictions in the open lists, to win or lose.

Certainly the proponents of this bill are presenting us with an example of how denunciation, without specification or backing, takes the place of evidence. Their obvious reluctance to give debate on this issue; their fear of having to rest their case before the American workingman of the merits of unionism, is conclusive proof that they fear to enter their "convictions in the open lists, to win or lose."

It has been inferred that the nonconformity caused by section 14(b) is a source of labor unrest, but that contention can be refuted by the simple fact that in 1946, the year before Taft-Hartley, 4,600,000 workingmen were involved in strikes for a loss of 116 million man-days, while by 1948, the year following enactment of Taft-Hartley, only 2,170,000 men were involved in strikes for a loss of only 34,600,000 man-hours.

The argument that union shop arrangements produce more peaceful and satisfactory industrial relations lacks considerable credence in view of the industrial strife which continues to plague those very industries in which the union shop agreements are the most prevalent. National strikes and strike threats regularly characterize negotiations in several of the Nation's major industries where compulsory union membership prevails. The strikes, delays and stoppages at some of our missile bases due to jurisdictional disputes among unions where union shop is deeply entrenched constitute a stanch refutation of the claim that secure unions are stable and responsible. The record clearly shows that union abuses, including unwarranted strikes, are more likely to be encouraged rather than minimized by compulsory unionism. When employees can join or refuse to join voluntary unions, the union leaders are compelled to serve the interests of the members who pay the dues in order to attract and hold the members needed to operate an effective union. This forces the union leadership to limit pursuing selfish interests, thereby increasing comparative honesty. Compulsion removes the necessity to attract new members and in this way encourages the less attractive and less efficient elements of leadership.

Closely related to this point is that what may seem to be good, responsible leadership in a compulsory union will almost certainly change over a period of time. Power and the lessening of the necessity to attract will change the character of most leadership. Union officers, with the knowledge that they in effect control the entire work force, inevitably would become more prone to make bargaining demands no matter how staggering, and to use strike threats arbitrarily and capriciously.

With compulsory membership, union chiefs can concentrate on perpetuating themselves in office and serving their own selfish motives and interests rather than constantly being under pressure to do something useful for the dues-paying members in order to attract and hold the membership and to retain the respect and support required for reelection. This is why many of them become ruthless disciplinarians who wield a club of authority over their members, rather than to advocate democratic procedures within the union that compel the leaders to be servants rather than bosses of their members. Thus, the need to hold members will usually prevent excesses and unethical conduct.

Decisions handed down by the NLRB during 1965 alone should shatter any illusion that the rights of individual union members will be protected by that kangaroo court which presently masquerades as an impartial arbiter of our national labor laws.

Within this past year the NLRB has upheld the right of unions to fine members for exceeding arbitrary production quotas or for exercising their right to cross a picket line. The Board upheld the expulsion of two union members for filing a petition with the NLRB decertifying the union as their bargaining representative, although the proceeding was filed pursuant to a statutory right.

In those States which do not give their people the protection of the right-to-work laws, harsh disciplinary action is often the product of arrogant labor bosses. In Milwaukee, Wis., United Papermakers Local No. 356 recently fined a woman member for missing union meetings, even though the meetings were scheduled during church hours on Sunday. The fine was upheld.

Within this past year the NLRB has violated both the letter and the spirit of the Taft-Hartley Act by holding that an employer must negotiate with the union over the establishment of a union hiring hall which would control all employment of personnel.

Mr. President, at this point I think it could be profitable if we made a point of discussion as to the question of freedom of association vis-a-vis compulsory unionism in some of the countries of Western Europe.

In the free European democracies the principle of compulsory unionism has been vigorously resisted wherever attempts have been made to provide for such in collective agreements. Generally, on the continent of Europe the freedom of a person to abstain from joining a labor organization developed over the years in somewhat the same ratio with the recognized right for a person to become associated with a labor organization. Most of these governments recognize that the affirmative side of freedom of association is the liberty of persons to either form or to join an association, but likewise, that this cognizance of the negative side of such freedom which includes a person's right not to associate and to refrain from forming or joining an organization.

The principle of voluntarism has, over a period of many years, pervaded the development of labor unions in Europe generally and it has been shown that compulsory unionism has been entirely inconsistent with not only legislative action, judicial opinion, but with public opinion as well.

One of the most controversial problems facing the present social law of countries in the stage of democracy in industrialism is that of legislative treatment of collective bargaining agreements by which an employee's right to work is cause to depend on membership in a labor organization. Relative to the position taken on this problem in the United States, it has been repeatedly stated that legislative treatment of it has reflected its extremely troublesome nature on the grounds that such an agreement is a patent interference with an employee's freedom of self-organization.

In the United States an approach to the problem first meets the question of whether legislative approval of collective agreements makes, for the sake of labor organizations, too great demands on the individual employee which work to his own disadvantage. Arguments on the question obviously must be in conflict. On the one hand, there is the contention of the necessity for security provisions in order to preserve bargaining power and, on the other hand, it has been pointed out that an employer would not willingly yield to a union's demand for a union shop clause if the union were not powerful enough to enforce such a demand.

It is notable that the solution of the labor-management relations problem as represented by legislation on our statute books presents a compromise between the moral idea of freedom in which unionism should be originated, and the device of compulsion brought on the individual to join a union. In theory, each employee has a right to be represented by a union of his own choice, or not to be represented at all, but as has been touched upon previously, it takes a certain brand of heroism for an employee to invite all the troubles involved in his exercise of this freedom. It is difficult, to say the least, to see how an

employee can really offer any opposition to the union which is party to the union shop agreement which forced him in the first place into membership in a union with whose internal policies he is in substantial disagreement. It can be readily seen that his freedom of choice is in substantial and practical conflict with such an agreement.

An employee's right to join or refrain from joining a labor organization has been a focal point of labor-management controversy in the United States since the passage of the Wagner Act in 1935. The 1935 Wagner Act did not attempt to make closed shop agreements legal in any State where they might be illegal. However, the Labor-Management Relations Act of 1947 has expressly outlawed closed shops and has left it to the States either to prohibit union shop agreements entirely or to regulate them.

An objective judgment on the present status of the American law regarding union shop agreements would point it out to be confused and entangled. Any comparison between American law on this subject and that of certain European nations, which in varying degrees might be called counteraprts of this country's indicates that the problem is somewhat similar, but in no instance identical. Although a number of European countries have legislated on this matter, the very nature of their legislation and the prevalence of union membership indicate that this issue has never been prominent in political affairs or legal proceedings.

Belgium, for example, in the Belgian Act, passed in 1921, expressly provided:

Nobody can be compelled to join an organization or not to join it.

Further provision prohibits making membership or nonmembership in an organization a condition of employment. Judicial interpretation of this legislation has ruled that conditioning employment upon union membership was in violation of an employee's freedom of association and to make membership a condition of employment is not to protect a legitimate personal interest, but is something which is void of any legal justification.

In the Netherlands, the Act on Collective Bargaining Contracts, passed in 1927, provides the official expression of the Government's protection of the right of employees to refrain from joining unions in the following language:

An agreement whereby an employer becomes bound to employ only members of a certain religion, or persons entertaining a certain political view or members of a certain organization is null and void.

In Austria the invalidity of a compulsory unionism provision is expressly treated by legislation stating:

Provisions in collective bargaining contracts between employer and employees are null and void if they are intended to insure that no persons other than members of a particular union are employed or to keep from employment persons who are members of a particular union.

Similarly, Denmark, in a statute enacted in 1929, directs:

Any act or conduct which in an unjustified manner seeks to restrict the freedom of an individual to engage in an occupation or the right to join or abstain from joining any organization shall be deemed unlawful.

The Federal Republic of Germany, in a number of judicial decisions even in the absence of any expressed legislative dictate, has decreed that any injury or damage inflicted upon an individual because of his nonmembership in a union is violative of fundamental constitutional rights and that clauses in collective agreements which make union membership a condition of employment are necessarily repugnant to a worker's personal feeling.

France has not enacted particular legislation concerning union shop clauses, but it has forcefully relied on constitutional tenets and on general principles of law to determine that clauses provoking compulsory unionism are unlawful in France. The French Government in the late 1940's took the position that—

The democratic state, as the protector of public liberties, has the duty to insure the respect of all aspects of the right to organize—one of the fundamental liberties of modern society. Accordingly, the statement emphasizes that measures taken to protect this right must not only safeguard the positive freedom of association, but also guarantee to wage earners that nonmembership in a union may not be taken into account in relation to engagement, maintenance in employment, or dismissal.

In a supplementary declaration the French Government further provided:

Any provision in the enactment of a collective agreement intended to force a worker to belong or not to belong to a particular trade union, under the threat of not being engaged for employment or losing his employment is * * * incompatible not only with the principle of freedom of association, but also with the principle of freedom of work.

In Switzerland there is no specific legislation covering closedshop contract clauses. However, by 1949 the Swiss courts had come to the view that the closed shop was beyond doubt an unwarranted interference with the right not to organize, that is, a person's right to remain outside an association without suffering any appreciable economic harm—and that, moreover, it was an unlawful infringement of the rights of the individual. There has subsequently been judicial approval of this view. The Swiss Parliament in 1956 enacted an amendment to the Swiss Code of Obligations that provided:

Any clause of an agreement or arrangement between the parties to compel employers or employees to join a contracting association shall be null and void.

In Sweden any efforts either by the Confederation of Swedish Labor Unions or by the Swedish Employers' Federation to make membership in a contracting labor organization a condition of employment have been invalidated by the Swedish labor courts.

In like fashion to the Swedish unions, those in Norway have succeeded in organizing a vast majority of employees comprising a substantial segment of the labor force without resorting to any method of compulsory unionism. Consequently, Mr. President, there seems to be little doubt that the general European consensus after many years of trial and experiment indicates that compulsory unionism is obnoxious, and thus is either legislated against or judicially decreed as illegal, unlawful, and against moral principle.

Mr. President, there is even a strong school of thought within the liberal establishment itself, and I daresay that it cannot be catalogued as a minority school, that feel that unions that rely on compulsion weaken their own effectiveness. Only a voluntary membership can feel free to determine policies and leadership and to modify them as the need arises. A comparative membership of employees under union shop arrangement must be so categorized, and is so subject to dismissal from employment as to be loathe to act openly, and, as industrial history has eloquently revealed, the voluntary system of joining a union is always more effective than being enforced against one's wishes and better judgment to subscribe his or her name to the membership rolls.

Another consideration that we should at this point evaluate is the fact that in so many instances where union shop agreements once having been entered into, but later eliminated or repudiated, show that in repeated series of instances many of the higher caliber employees who had chosen not to assume positions of leadership under compulsory unionshop agreements have come forward as extremely capable union officials operating under voluntary membership contracts.

Contrary to accusations, right-to-work laws do not discourage employees from joining unions, since they are free to join if they so desire and free to withhold membership if that is their desire. State laws do have the effect of allowing protection to both union members and nonmembers in their own personal and particular choice. They are designed to make sure that whichever choice is made, it is a free choice. Additionally, the Federal Law under Taft-Hartley carefully protects the right of unions to organize and bargain collectively and lawfully requires employers to bargain with them accordingly.

There is no State law that can take away the protections which our present national labor policy affords to those who wish to join unions. In so many instances, it is assumed that unions are operated on a completely democratic basis and that strikes, for example, are only called after a favorable vote of the majority of the membership. However, this is not a requisite for a labor organization, and many of them have no such requirement spelled out in their constitutions. In cases in which there is a constitutional provision within a labor organization, very frequently the vote for strike action is conducted by a standing ballot of those present rather than by a secret ballot which preserves the elements of the true democratic process rather than allowing for the contrived and desired result that the leadership would have manifold reasons to desire and against which many of the rank and file members would see fit not to oppose in fear of the incurrence of displeasure of the leaders of their particular union.

Who are these labor lords who in their insatiable quest of absolute power have issued their threats and ultimatums to the Congress of the United States with the arrogance and impudence of feudal chieftains? They are the leaders who have betrayed the principles of free choice upon which the American labor movement was founded; who have rejected the wise council of their friends and have trampled upon the rights of their own members.

They are the leaders who fear to rest their case before the American workingman on their record of proven accomplishment, responsible leadership or dedication to the welfare of their members. They are the leaders who are either unwilling to or incapable of purging their movement of the corruption, the racketeering and the Communist infiltration so clearly revealed and documented by recent congressional investigations and Federal prosecutions. They are the leaders who revealed their obsessive fear of their own rank and file membership when they fought the Labor Management Reporting Act of 1959, an act which simply guaranteed the individual member's equal rights and privileges to participate in elections and meetings; freedom of speech and assembly to discuss the conduct of union officers; secret balloting in the election of officers, and the determination of dues, fees, or other assessments; the right to take legal action against union officials for misconduct in office; and protection against arbitrary or improper suspension, expulsion, or other disciplinary action.

These are the labor barons who castigated the Congress in vehement outrage for daring to require them to adopt constitutions and bylaws and to file with the Secretary of Labor copies of these, together with other information on such matters as the rules governing admissions, dues, audits of funds, selection of officers, and strike votes. But the objects of their most violent abuse were those provisions requiring the filing of annual financial reports and spelling out the fiduciary responsibility of union officers managing union funds with safeguards provided, and the disqualification of convicted criminals from holding such union positions.

In view of the foregoing, Mr. President, is it any wonder that the rank and file of American workingmen are suspicious of these men and refuse to accept them as their spokesmen; that the labor movement has failed to grow appreciably in membership since 1947 despite an increase of more than 4 million in the labor force; or that the only way such leaders can expect to even hold the loyalty of their present membership is through compulsory, involuntary unionization?

No, Mr. President, these bigtime labor bosses do not speak for the rank and file; nor do they speak for the responsible labor leaders of the past and present, or for many other constitent and influential friends of their movement who likewise reject the concept of compulsory unionization.

What more conclusive argument could be cited against the repeal of 14(b) than the statement made by Samuel Gompers, the father of the American labor movement, to the American Federation of Labor Convention in 1924. Warning against policies based on compulsion and force, Mr. Gompers said:

So long as we have held fast to voluntary principles, and have been actuated and inspired by the spirit of service, we have sustained our forward progress and we have made our labor movement something to be respected and accorded a place in the councils of our Republic. Where we have blundered into trying to force a policy on a decision, even though wise and right, we have impeded, if not interrupted, the realization of our aims.

Men and women of our American trade union movement, I feel I have earned the right to talk plainly to you. As the only delegate to that first * * * convention (in Pittsburgh) who has stayed with the problems of our movement through to the present hour, as one who with clean hands and with singleness of purpose has tried to serve the labor movement honorably and in a spirit of consecration to the cause of humanity, I want to urge devotion to the fundamentals of human liberty—the principle of voluntarism. If we seek to force, we but tear apart that which, united, is invincible.

* * * * *

Understanding, patience, high-minded service, the compelling power of voluntarism have in America made what was but a rope of sand, a united, purposeful, integrated organization, potent for human welfare, material, and spiritual.

* * * * *

As I review the events of my 60 years of contact with the labor movement, and as I survey the problems of today, and study the opportunities of the future, I want to say to you, men and women of the American labor movement, do not reject the cornerstone upon which labor's structure has been builded—but base your all upon voluntary principles and illumine your every problem by consecrated devotion to that highest of all purposes—human well-being in the fullest, widest, deepest sense.

Mr. President, I invite each Senator's attention to Mr. Gompers' statement of the basic moral and legal principle debated here today:

There may be here and there a worker who for certain reasons unexplainable to us does not join a union of labor. That is his right no matter how morally wrong he may be. It is his legal right and no one can or dare question his exercise of that legal right.

Does anyone dispute the fact that one of the truest, ablest, and most eloquent friends American labor ever had in the judicial councils of this Nation was Mr. Justice Brandeis? Yet can there be found a more clear, cogent or persuasive argument against compulsory unionization than his following statement quoted by Justice Frankfurter in *A.F. of L.* v. *American Sash Co.*, 335 U.S.:

It is not true that the success of a labor union necessarily means a perfect monopoly. The union, in order to attain or preserve for its members industrial liberty, must be strong and stable. It need not include every member of the trade. Indeed, it is desirable for both the employer and the union that it should not. Absolute power leads to excesses and to weakness: Neither our character nor our intelligence can long bear the strain of unrestricted power. The union attains success when it reaches the ideal condition, and the ideal condition for a union is to be strong and stable, and yet to have in the trade outside its own ranks an appreciable number of men who are nonunionists. In any free community the diversity of character, of beliefs, of taste—indeed mere selfishness—will insure such a supply, if the enjoyment of this privilege of individualism is protected by law. Such a nucleus of unorganized labor will check oppression by the union as the union checks oppression by the employer.

Mr. President, the untenable position in which the proponents have been placed by the legal, moral, and rational impotence of their cause, as well as their mortal fear of public debate on this issue, was clearly exposed by the sheer desperation with which they tried to ramrod this measure through the first session by legislative juggernaut.

This strategy was necessarily dictated by the knowledge that such a proposal cannot stand on right or reason but must base its chances on a blitz-like application of massive political power. Proposals such as the repeal of 14(b) cannot withstand the light of public examination or the deliberate consideration of the normal legislative processes, for it is predicated not on principle, but on power, not on right, but on might.

Certainly no one can question the credentials of Justice Black as a consistent and faithful spokesman for the liberal establishment. Yet, I would direct your attention to Justice Black's dissenting opinion in the case of *International Association of Machinists* v. *Street, et al.*, 367 U.S. 740, 6 L. Ed. 2d. 1141 (1961), wherein he stated:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Probably no one would suggest that Congress could, without violating this amendment, pass a law taxing workers, or any persons for that matter (even lawyers), to create a fund to be used in helping certain political parties or groups favored by the Government to elect their candidates or promote their controversial causes. Compelling a man by law to pay his money to elect candidates or advocate laws or doctrines he is against differs only in degree, if at all, from compelling him by law to speak for a candidate, a party, or a cause he is against. The very reason for the first amendment is to make the people of this country free to think, speak, write, and worship as they wish, not as the Government commands.

There is, of course, no constitutional reason why a union or other private group may not spend its funds for political or ideological causes if its members voluntarily join it and can voluntarily get out of it. Labor unions made up of voluntary members free to get in or out of the unions when they please have played important and useful roles in politics and economic affairs. How to spend its money is a question for each voluntary group to decide for itself in the absence of some valid law forbidding activities for which the money is spent. But a different situation arises when a Federal law steps in and authorizes such a group to carry on activities at the expense of persons who do not choose to be members of the group as well as those who do. Such a law, even though validly passed by Congress, cannot be used in a way that abridges the specifically defined freedoms of the first amendment. And whether there is such abridgment depends not only on how the law is written but also on how it works.

There can be no doubt that the federally sanctioned union shop contract here, as it actually works, takes a part of the earnings

of some men and turns it over to others, who spend a substantial part of the funds so received in efforts to thwart the political, economic, and ideological hopes of those whose money has been forced from them under authority of law. This injects Federal compulsion into the political and ideological processes, a result which I have supposed everyone would agree the first amendment was particularly intended to prevent. And it makes no difference if, as is urged, political and legislative activities are helpful adjuncts of collective bargaining. Doubtless employers could make the same arguments in favor of compulsory contributions to an association of employers for use in political and economic programs calculated to help collective bargaining on their side. But the argument is equally unappealing whoever makes it. The stark fact is that this act of Congress is being used as a means to exact money from these employees to help get votes to win elections for parties and candidates and to support doctrines they are against. If this is constitutional the first amendment is not the charter of political and religious liberty its sponsors believed it to be. James Madison, who wrote the amendment, said in arguing for religious liberty that "the same authority which can force a citizen to contribute 3 pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever." And Thomas Jefferson said that "to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical." These views of Madison and Jefferson authentically represent the philosophy embodied in the safeguards of the first amendment. That amendment leaves the Federal Government no power whatever to compel one man to expend his energy, his time, or his money to advance the fortunes of candidates he would like to see defeated or to urge ideologies and causes he believes would be hurtful to the country.

The Court holds that 2, 11th denies "unions, over an employee's objection, the power to use his exacted funds to support political causes which he opposes." While I do not so contrue 2, 11th, I want to make clear that I believe the first amendment bars use of dues extorted from an employee by law for the promotion of causes, doctrines and laws that unions generally favor to help the unions, as well as any other political purposes. I think workers have as much right to their own views about matters affecting unions as they have to views about other matters in the fields of politics and economics. Indeed, some of their most strongly held views are apt to be precisely on the subject of unions, just as questions of law reform, court procedure, selection of judges and other aspects of the administration of justice give rise to some of the deepest and most irreconcilable differences among lawyers. In my view, section 2, 11th can constitutionally authorize no more than to make a worker pay dues to a union for the sole purpose of defraying the cost of acting as his bargaining agent. Our Government has no more power to compel individuals to support union programs or union publications than it has to compel the support of political programs, employer programs or church programs. And the first amendment, fairly construed, deprives the Government of all power to make any person pay out one single penny against his will to be used in any way to advocate doctrines or views he is against, whether economic, scientific, political, religious or any other.

I would therefore hold that section 2, 11th of the Railway Labor Act, in authorizing application of the union-shop contract to the named protesting employees who are appellees here, violates the freedom of speech guarantee of the first amendment.

I cannot agree to treat so lightly the value of a man's constitutional right to be wholly free from any sort of governmental compulsion in the expression of opinions. It should not be forgotten that many men have left their native lands, languished in prison, and even lost their lives, rather than give support to ideas they were conscientiously against.

Unions composed of a voluntary membership, like all other voluntary groups, should be free in this country to fight in the public forum to advance their own causes, to promote their choice of candidates and parties and to work for the doctrines or the laws they favor. But to the extent that Government steps in to force people to help espouse the particular causes of a group, that group—whether composed of railroad workers or lawyers—loses its status as a voluntary group. The reason our Constitution endowed individuals with freedom to think and speak and advocate was to free people from the blighting effect of either a partial or a complete governmental monopoly of ideas. Labor unions have been peculiar beneficiaries of that salutory constitutional principle, and lawyers, I think, are charged with a peculiar responsibility to preserve and protect this principle of constitutional freedom, even for themselves. A violation of it, however small, is, in my judgment, prohibited by the first amendment and should be stopped dead in its tracks on its first appearance.

Mr. President, the untenable position in which the proponents have been placed by the legal, moral, and rational impotence of their cause, as well as their mortal fear of public debate on this issue, was clearly exposed by the sheer desperation with which they tried to ramrod this measure through the first session by legislative juggernaut.

This strategy was necessarily dictated by the knowledge that such a proposal cannot stand on right or reason but must base its chances on a blitz-like application of massive political power. Proposals such as the repeal of 14(b) cannot withstand the light of public examination or the deliberate consideration of the normal legislative processes, for it is predicated not on principle, but on power, not on right, but on might.

There were those who believed that the awesome legislative power of the administration, combined with the coercive force of the labor bosses who have committed it to this unworthy, would constitute an irrepressible combination. But they did not anticipate the groundswell of public outrage which would rise up against them, having badly misjudged the character and prsonality of the individual American workingman.

As stated by William Jennings Bryan at the National Democratic Convention of 1896:

> The humblest citizen of all the land, when clad in the armor of a righteous cause, is stronger than all the hosts of error * * *. You shall not press down upon the brow of labor this crown of thorns.

Mr. President, they will not deprive the workingmen of the 19 right-to-work States their freedom of association or their right to live and work as they please. This Congress will not repeal 14(b).

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled, "All 50 States Are Involved," published in the Biloxi, Miss., Herald, September 6, 1965.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). It there objection?

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Biloxi (Miss.) Herald, Sept. 6, 1965]

ALL 50 STATES ARE INVOLVED

Some folks seem to be under the impression that the repeal of section 14(b) of the Taft-Hartley law, which is now being considered by the U.S. Senate, would affect only the nonunion wage earners in those States which presently have right-to-work laws. Nothing could be further from the truth. In addition to striking out the freedom of workingmen in those 19 right-to-work States either to join or not join a labor union, the repeal of section 14(b) would increase the political power of union bosses far beyond its present level, and thus threaten the citizens of all States with what would amount to a union-boss dictatorship, based on compulsory unionism and effected through the institutions of our Federal and State Governments.

As Reed Larson, exective vice president of the National Right-to-Work Committee, said recently in Detroit: "The existence of 14(b) and the possibility of a State prohibition on compulsory unionism provides an important restraint on abuses of union power in every State, whether or not they have a State right-to-work law or an active campaign to achieve one."

We do not question the right of union bosses, or anyone else, to participate in politics. But they should not be allowed to do so with money extracted from a wage earner's pockets as a condition for his earning a living. Unquestionably, the repeal of section 14(b) would enable the unions to do just that, on a nationwide scale.

The already dangerous extent of union-boss political power is evidenced by the manner in which the political proposal to repeal section 14(b) was bulldozed through the House of Representatives.

Our main objection to repeal of section 14(b) is that it further extends Federal control over the rights of the various States. Mississippi is one of the States that has passed and added to its constitution a right-to-work amendment. The Federal Government would, under the repeal act, prohibit Mississippi from enforcing an act now in its constitution.

While nonunion employees may get advantage of some of the negotiations of unions, this is also true of nonmembers of chambers of commerce. There are no laws forcing membership in a chamber of commerce and there should be none. The same should continue to apply to unions if each individual State desires to pass such laws.

Mr. EASTLAND. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled, "The Right To Vote and Work," published in the Greenwood, Miss., Commonwealth, September 14, 1965.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

RIGHT TO VOTE AND WORK?

Some of the most important and far-reaching legislation the current Congress is still considering has to do with labor.

At the top of the list is the drive to repeal section 14(b) of the Taft-Hartley Act which permits States, if they so choose to enact right-to-work laws. This has passed

the House and is now in the Senate. If the Senate succumbs to the powerful, even ruthless, political pressures which demand repeal, rank-and-file working people will be deprived of an absolutely essential right and protection. No matter what their beliefs and wants, they will be forced to join and pay dues to a private organization, a union, or lose their jobs. This is as unthinkable as if Congress passed a law denying a man the right to join a union.

Along with this, another vital issue is at stake. It is the right to vote. This simply means that no union should be certified as a bargaining agent for employees without a secret ballot election supervised by the National Labor Relations Board. As of now, certification can be gained on the basis of a card count. The weaknesses in this are glaring. As the Cincinnati Enquirer has said, "Certification of a union as the bargaining agent for a group of employees should not be made on the basis of signatures to cards, as pressures conceivably could be used to obtain these that would not be operative in a secret election * * *. No should there be a recognition simply on the basis of a contract between employer and union leader because there have been cases where so-called sweetheart contracts scratched the back of the employer and the union boss but sold out the workingman."

The weary charge that right-to-work and right-to-vote laws are antiunion is as phony as a $3 bill. They are, instead, protections against exploitation and misrepresentation of the desires and beliefs of the workingman who should have freedom of choice.

Mr. EASTLAND. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled, "The Right to Vote in Union Matters," published in the Clarion Ledger, Jackson, Miss., August 26, 1965.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Jackson (Miss.) Clarion-Ledger, Aug. 26, 1965]

RIGHT TO VOTE IN UNION MATTERS

If our U.S. Senators and Representatives were elected to office by some of the same procedures used by a labor union to get selected as the employees' representative, there would be a great hue and cry around the Nation.

The truth is that in some instances the National Labor Relations Board in Washington has been depriving employees of the right to a secret ballot in determining whether or not they want a union.

Official records clearly show that this has happened in NLRB rulings.

In some cases, the Board actually requires businessmen to bargain with a union even though a majority of their employees do not want that union.

Senator FANNIN of Arizona said in a recent floor speech: While Congress has legislated to give the vote to all Americans, the National Labor Relations Board is eliminating such right for the American worker in determining union representation.

Several members of the Senate have introduced bills to guarantee employees the right to a secret ballot election. It will be interesting to see how these proposals fare with the majority of Senators overwhelmingly favorable to the so-called voting rights bill recently steamrolled through Congress.

Unfortunately, by various reports, many in Congress are not even aware of the legal loopholes under which workers can be deprived of their right to vote in union elections.

Many people believe workers always have the right to decide by secret ballot whether or not a majority of them want a particular union as their representative. This is not true.

So before even considering the repeal of section 14(b) of the Taft-Hartley Labor Act which guarantees the right to work, Congress should make certain that workers are guaranteed the right to vote in any and all elections pertaining to union representation.

Mr. EASTLAND. Mr. President, I ask unanimous consent to have printed in the RECORD a guest editorial entitled, "The Union Power Grab," which was published in the Jackson, Miss., Clarion Ledger of August 30, 1965.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Jackson (Miss.) Clarion-Ledger, Aug. 30, 1965]

A UNION POWER GRAB

(A guest editorial from the New York Herald Tribune)

The House vote to repeal section 14(b) of the Taft-Hartley Act pays the first installment of President Johnson's campaign debt to the princes of organized labor. The manner in which the repeal bill was railroaded through the House, with debate severely limited and amendments barred, certainly does no credit to its managers; nor does the cynical administration-engineered log-rolling in which votes for repeal were swapped for the promise of votes for the new farm bill.

But the House has acted; it's now up to the Senate.

The actual importance of 14(b) may be more symbolic than real, but the principle involved is large; whether a worker should be coerced into joining a union, whatever his objections, on pain of losing his livelihood. This is what the unions demand.

They defend this demand on the grounds of a supposed "right of contract"—the right of an employer and a union to agree on contract terms requiring membership. And if the issue were solely between employer and union, this would be a valid right. But it isn't; the whole point of such a contract is that two parties bargain away the rights of a third—the nonunion worker.

The free ride argument, too, is specious. It's true that a union bargains for all employees in a given company, not only for its own members—but it was the unions themselves that insisted on being certified as the exclusive bargaining agents even if only 51 percent of the workers elected to join. To parlay this into an insistence that all should be required to join is to argue that one privilege demands another.

Unions today are much more than bargaining agents; they are, among other things, powerful political organizations, and the whole notion of coerced membership in a political organization is repugnant to the American ideal of personal liberty. To strip away even the limited protection 14(b) gives the dissenting worker would put the force of Federal law behind an unconscionable private power grab.

Mr. EASTLAND. Mr. President, I ask unanimous consent to have printed in the body of the RECORD an editorial entitled "Dictates of Conscience," from the Hinds County Gazette of August 21, 1965.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Hinds County Gazette, Raymond, Miss., Aug. 21, 1965]

DICTATES OF CONSCIENCE

There are times, so we've been told, when a Congressman or Senator may feel compelled, in good conscience, to take a stand on some particular issue which he knows full well is contrary to the wishes of the majority of his constituents. By so doing, he unquestionably would risk being voted out of office at the next election. And we would respect such a man for his conscientiousness, even if we disagreed with his position.

But, we don't take it for granted, in such cases, that someone is really following the dictates of conscience just because he claims so. We expect, for example, that this might be the claim of many among the 221 Members of the present Congress who voted recently to repeal section 14(b) of the Taft-Hartley Act despite the fact freely admitted by many of them that their constituents were overwhelmingly in favor of keeping that provision in the law. We don't doubt one bit that some of them were voting according to some dictates; but not, we are equally certain, of conscience.

Theirs was, in our opinion, an entirely unconscionable act. It demonstrated a willingness on their part to violate several of the basic and inherent rights of all American working men and women, those who are union members as well as those who are not, in order to ingratiate themselves with power-lusting elements in Government and in the hierarchies of labor unions.

Mr. EASTLAND. Mr. President, I ask unanimous consent that several additional editorials be printed at this point in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Jackson (Miss), Clarion-Ledger, Sept. 5, 1965]

FORCING WORKERS TO JOIN UNIONS NOT RIGHT WAY TO GET MEMBERS

The prounion Senate Labor Committee has voted, 12 to 3, to clear a bill which would repeal section 14(b) of the Taft-Hartley Act that allows, 19 States including Mississippi, to compulsory union membership with right-to-work laws.

While no date has been set for action on this bill by the full Senate, it will certainly face a bitter fight when it does come up for debate. Southern Democrats and conservative Republicans who oppose this measure promise to offer many amendments and extensive arguments.

Meanwhile, it is interesting to note results of a study just published by the National Bureau of Economic Research, showing that labor union membership has declined in postwar years.

In the 5 years following 1957, while nonfarm civilian employment rose by nearly 4 million, membership in American labor unions dropped by 1,800,000. From a peak membership of 17,700,000 in 1957, the union rolls fell to 15,900,000 at the end of 1962.

Today only 1 nonfarm worker in 4 is a union member whereas at the peak, it was one worker in three.

Labor leaders blame "automation" for shifting many workers to white collar jobs where they don't want to join unions, and unionists also blame right-to-work laws for the membership decline. This has given an excuse to demand repeal of section 14(b), with support from President Johnson.

"But if the Senate surrenders to this pressure and votes to repeal it, as the House already has done," says the Chicago Tribune editorially, "the unions will have to find other scapegoats, because the right-to-work laws have had almost nothing to do with falling membership.

"In the first place, only 19 States have such laws and none of these is a labor stronghold," the Tribune points out. "The establishment of compulsory union membership would yield only a trickle of new union members. What's more, these new members would hardly be happy ones."

[From the McComb (Miss.) Enterprise-Journal, August 2, 1965]

WOULD SELL US OUT, YET CRY, "KEEP LIBERTY ALIVE"

Former President Dwight Eisenhower said, "I have always supported 14(b) because I believe in the right to each State to determine for itself what it wants to do. Section 14(b) should remain in the law."

What is section 14(b)? This is the section of the Taft-Hartley law which provides that States can have their own right-to-work laws.

The right-to-work law means what the title suggests—that a worker has the right to work whether he is a union member or not. It means that a man cannot be denied the right to join a union. It means also that a union cannot force a worker to belong to a union.

Tens of thousands of people in our country today blame all of our evils on the communists. Many will fail to interest themselves in our basic problems. They think that all that is required to be patriotic is to damn the communists and to blame them for our wrongs. This is dangerous because many people who fear tyranny from abroad fail to recognize its development when they see it promoted by Americans right here on our own doorsteps.

The effort to repeal the right-to-work laws is not a communist endeavor. It is a proposition advocated by Americans. And few things can jeopardize our individual liberties than the rescinding of this portion of the Taft-Hartley law.

Who is doing this? First the union leaders are seeking the repeal to open the doors to the collection of union dues whether or not workers want to pay them. The President of the United States is pushing this proposition. Many Senators and Congressmen are pushing for the repeal. Why? Because they promised to support the union bosses in exchange for the political support given in the last election.

This effort is a shameful attack upon American freedoms. Yet the average Tom, Dick, and Harry is showing little concern. This indifference places the freedoms of Americans in jeopardy.

The political indication today is that with the aid of President Johnson and his aids in the House and Senate that the State right-to-work laws will be invalidated; that the Taft-Hartley law will be modified to outlaw them.

It is strange that such a gross attack can be made upon a thing so vital to the perpetuation of freedom and yet so few voices are being raised against it. It appears at times that many Americans would prefer to blame our evils on the communists and let it go at that. This threat to freedom is not a communist threat. It is a threat by Americans, many of whom are waving the flag and crying, "Let's Keep America Free."

[From the Meridian (Miss.) Star, Aug. 17, 1965]

MORE CONTRADICTIONS

The record is replete with contradictory statements made by Lyndon B. Johnson ("night-blooming Judas") on important issues.

A striking example of this is Johnson's current position favoring repeal of the right to work law, as opposed to the position he took when running for the Senate in 1948.

The House has voted to repeal the law, which is section 14(b) of the Taft-Hartley law. The Senate has not voted on the matter.

The statements made by Johnson when he was running for the Senate against Coke Stevenson in 1948 are interesting to say the least:

"I have never sought nor do I seek now the support of any labor bosses dictating to free men anywhere, anytime." (Dallas News, August 10, 1948; Associated Press Story.)

"Although I have been a friend of the working man, these big labor racketeers have voted to destroy me and other forthright Congressmen who had the courage to vote for the Taft-Hartley bill."

"Lyndon Johnson voted for the Taft-Hartley anti-Communist law because he believes that no group of men—big labor or big business—should possess the power to wreck our national welfare and economy."

"Lyndon Johnson will never vote to repeal this law." (Radio program on KRLD as reported by the Dallas News, August 18, 1948.)

Texans assure him that he is 100 percent correct when he says there are only two great issues before Texas and the Nation today, the Congressman said.

"One is whether we should bow our necks to labor dictatorship through the repeal or softening of the anti-Communist Taft-Hartley bill, the other is the question of foreign policy." (Dallas News, August 20, 1948.)

[From the Natchez (Miss.) Democrat, Aug. 4, 1965]

STEAMROLLER TACTICS

Just as had been anticipated President Johnson and his ultraliberal administration are using every steamroller tactic possible in an effort to force the U.S. Congress to repeal section 14(b) of the Taft-Hartley Act.

This is not only to pay organized labor for their vote in the last election, but is also their bid for their vote in the next election in order to retain and expand the present obnoxious liberal government and its policies.

This move would nullify laws in 19 States, including Mississippi, which now forbids compulsory union membership as a condition for getting and keeping a job.

Reduced to essentials, the issue here is freedom—an individual's freedom to choose, freedom to associate with others, or to abstain from such membership activity and association as he may see fit.

The foundation of American liberty has been the rights of each person. These rights must not be replaced by the alleged right of a group to compel the individual to conform to group purposes.

There is no room in this concept for compulsory membership and dues-paying in any nongovernmental organization—church, union, farm group, veterans' association, business group, or political party.

It is a known fact that the union movement uses dues to support chosen candidates.

The preamble to the famous "Statute of Virginia for Religious Freedom," drafted by Thomas Jefferson himself, has stated this principle concisely:

"To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves or abhors is sinful and tyrannical."

A United Nations resolution, approved by the General Assembly in 1948, has affixed this concept of civil liberty in these plain words:

"Everyone has the right to freedom to peaceful assembly and association. No one may be compelled to belong to an association."

For a labor union to take a member's dues and use them to finance economic or political programs he may abhor, or to help elect some public candidate to whom he is opposed, is repugnant to freedom.

Certainly the forcible herding of membership is more akin to foreign dictatorship than to American principles of freedom and democracy.

It mocks justice and commonsense to argue that it is wrong to force a worker to stay out of a union—but right to force him to join one. The best interests of the general public, individual workers, and the unions themselves will be served by keeping section 14(b) of the Taft-Hartley Act as it is now written into the law of the land.

[From the Jackson (Miss.) Clarion-Ledger, Sept. 6, 1965]

BABSON'S REPORT: UNIONS TO GAIN MUCH BY REPEAL

BABSON PARK, Mass.—The big unions have been waging an uphill battle in recent years. Gains in membership have been hard to come by. As a percentage of the total workforce, unionism has been slipping. But all that will be changed with repeal of 14(b) of the Taft-Hartley Act—doing away with the right of the States to prohibit the union (closed) shop.

From now on, we say, watch the unions roll to new heights of power.

LOOKING BACK

It was 30 years ago that labor was given its first magna carta, the Wagner Act. Under the sponsorship of the New Deal, this measure guaranteed the right of workers to organize to negotiate with employers, to strike, and to be protected against unfair labor practices. Employers, in general, claimed that the law was one-sided, giving full consideration to the unions but restricting management.

Over subsequent years, Congress has appeared to agree with this claim.

In 1947 the Taft-Hartley Act was passed, over a Truman veto, giving protection to management's rights. It was promptly dubbed a "slave labor act" by the unions.

The congressional pendulum, nevertheless, continued to swing away from labor and toward management. By 1958 Congress was ready to force unions to file reports on their pension and welfare funds.

Further restrictions were placed on organized labor by way of the Landrum-Griffin Act of 1959, which barred certain types of picketing and secondary boycotts.

SLOW TO SWING

Over the last several years, union heads for the most part have maintained agreeable relations with the White House as well as with Government labor agencies. Labor's progress with Congress, however, has been slow. Not until the current session has there been a safe majority who could be counted on to get behind major demands of the unions and push through legislation favorable to labor.

Partly responsible has been the hard-fought battle of AFL–CIO groups to elect friendly aspirants to both the House and the Senate. Then, too, President Johnson has given encouragement, even though sometimes rather muted, to a number of union legislative targets. Upping of the minimum wage, for example—eventually to $1.75—and wider coverage.

HUGE BOON

Perhaps no other piece of legislation has netted labor leaders more than section 14(b) of the Taft-Hartley Act. The reason is clear. This section gives individual States the right to pass their own right-to-work laws making the involuntary union shop illegal.

In the 19 States which have taken advantage of this opportunity under 14(b), it has meant that workers no longer had to join a union and pay dues in order to get or keep a job. Repeal of 14(b) will erase these State laws and bring a return of the union-shop labor contract.

As a result, union exchequers in these 19 States could be increased by as much as $10 million by initiation fees alone coming from those employees who will have to become

union members if they are to work with firms that are under union contract.

This, of course, will substantially improve the financial condition of such labor organizations; for the newly signed up members will be contributing regular dues each month. This will serve to strengthen labor's economic position for lobbying as well as in political campaigns.

[From the Jackson (Miss.) Clarion-Ledger, Sept. 19, 1965]

SENATE MUST FACE REAL ISSUE IN CRUSADE AGAINST "RIGHT TO WORK"

Senators EASTLAND and STENNIS of Mississippi, along with other level-headed statesmen in the Upper Chamber, have a great opportunity to rescue Congress from its deplorable reputation of being a "rubber stamp" body of "yes-men" for the White House.

This opportunity lies in a Senate chance to defeat legislation passed by the House of Representatives to repeal section 14(b) of the Taft-Hartley Labor Act. This section authorizes the right-to-work law now effective in Mississippi and 18 other progressive States.

It guarantees the worker's right to get and hold a job without being forced to join a labor union and pay dues. This is not just an issue of employee versus employer, nor is it an issue between union and management.

Shall the States be free to pass or not to pass right-to-work laws? Shall the workers be free to decide whether they want to join unions or not? Or shall the only remaining freedom be the freedom of labor unions to force every worker to join a union where contracts apply?

The tired old argument that section 14(b) is unfair to union efforts to recruit new members, or to organize new industries, simply is not borne out by their increasing power and influence. Nor does the argument stand up that workers suffer because of lower wages and unemployment.

U.S. Department of Commerce figures show that personal income, numbers of jobs available and rises in hourly wages have increased by a greater percentage in right-to-work States than in these where unions have monopoly on employment.

At a time when Great Society masterminds are obsessed with assuring every minority member the "right to vote," the same clique is hell-bent on destroying the right to work without union membership and payment of dues.

It seems quite obvious that foes of section 14(b) are not really concerned with freedom, but are playing politics to the hilt.

The Senate should vote to preserve the worker's freedom of choice, as a great service to personal rights, and as proof that "the world's greatest deliberative body" is not a rubberstamp for the Chief Executive in his efforts to pay a political debt for CIO–AFL support in the last presidential campaign.

[From the Meridian (Miss.) Star, Sept. 15, 1965]

YOU'RE TELLING ME: DISCRIMINATION APPROVED

Congress outlawed discrimination in employment because of color, race, religion, and sex in the Civil Rights Act of 1964. So it is ironic, according to the Chamber of Commerce of the United States, that after banning so many grounds for discrimination a majority of the Members of the House have approved discrimination based on nonunion membership. They did this when they voted 231 to 203 to repeal section 14(b) of the Taft-Hartley Act. The section permits State right-to-work laws. These laws forbid discrimination because of nonunion membership. The issue is now before the Senate. Hopefully the Senators will see the paradox of banning job discrimination last year but sanctioning it this year. Labor unions have nothing to fear from right-to-work laws, as shown by the growth they have had in States with these laws as compared to those without.—Crowley (La.) Daily Signal.

[From the Jackson (Miss.) Clarion-Ledger, Sept. 8, 1965]

FOES OF RIGHT-TO-WORK LAW IGNORE U.N.'S DECLARATION OF HUMAN RIGHTS?

(By Tom Ethridge)

One-worlders and human rights crusaders of the Great Society have painted themselves into a corner, it appears, with their inconsistent stand for and against compulsion as a policy of government.

To repay labor leaders for herding their union flocks to the polls, and for spending huge sums from union treasuries in L.B.J.'s behalf last year, the Johnson administration is now pressuring its rubberstamp Congress to nullify all right-to-work laws.

These laws, now effective in Mississippi and 10 other States, forbid compulsory union membership and dues paying, as a condition for getting and holding a job.

It also happens to be a fact that the United Nations (sacred cow) is firmly on record against compelling any individual to belong to any organization against his or her wishes.

The so-called U.N.'s Universal Declaration of Human Rights plainly stipulates in article II that, "No one may be compelled to belong to an association."

It's amusing to note that our new U.S. Ambassador to the United Nations Arthur Goldberg, supposedly favors and upholds the U.N. Declaration of Human Rights, including the above quoted article II.

But he is the same Arthur Goldberg who was a CIO labor union mastermind before his Supreme Court appointment and resignation to accept this new U.N. post.

As a big-shot labor mastermind, he has been (and still is?) rabidly against right-to-work laws because they protect workers in 19 States from compulsory payment of union membership dues, often used for political purposes—such as keeping the national Democratic Party in power as a tool of big labor bosses.

How on earth did the President manage to talk Arthur Goldberg into resigning his important job as a U.S. Supreme Court Justice to accept the unimportant job as a U.S. Ambassador to the United Nations?

Various theories have been advanced but none more plausible than this bit of speculation by Commentator Ralph de Toledano:

Why, it was asked, would Mr. Goldberg leave a lifetime and prestigious post in the Nation's highest tribunal for the heartbreak and uncertainty of representing the United States at the U.N.?

No matter how you looked at it, the Goldberg acceptance made no sense. It was taken for granted that the President had done one of his skillful arm-twisting jobs, leaving Justice Goldberg no choice.

The facts are considerably different, Washington Commentator Toeldano goes on to say. Arthur Goldberg left his Supreme Court post willingly and with joy in his heart. From sources close to the former Justice and after cross-checking at the Great Society's top echelons, Toledano offers this intriguing theory.

The President was anxious to pay off one big political debt and to have a loyal Johnson man on the Supreme Court. His choice was Abe Fortas, presidential braintruster, leagal eagle, and troubleshooter. Mr. Fortas, however, could not sit on the Court—given the rigid ethnic division that now obtains—without replacing a Jewish Justice; namely, Mr. Goldberg.

Mr. Johnson, who likes to chalk up historical firsts, felt that he could use Mr. Goldberg to achieve this purpose.

Mr. Goldberg was quietly approached with this proposition: If he would accept the U.N. ambassadorship he would be rewarded with a precedent-shattering promotion.

"There has never been a Jewish Vice President," Lyndon Johnson told Mr. Goldberg. "If you will step down from the Supreme Court, I promise you the vice-presidential nomination in 1968. You will therefore have a chance at the presidency in 1972 when I can no longer run."

Justice Goldberg leaped to the suggestion. It has, moreover, been a badly kept secret that President Johnson had no intention to allow Mr. HUMPHREY a second term in the Veep spot.

In the months to come, the administration's publicity machine will do its utmost to make a national hero of Arthur Goldberg. His every move will be hailed as the acme of statesmanship and diplomatic brilliance.

[From the Hernando (Miss.) Times-Promoter, Sept. 17, 1965]

THE RIGHT TO WORK

(By Vant Neff)

Must you join a union to hold a job? It all depends on where you live. In some 31 States, if the company where you start work has a union, you either join or you're out. In 19 others, the choice is still yours—join or not—you can still get and keep a job.

How long this choice will last is up to Congress. President Johnson has just asked our lawmakers to take away that freedom.

When the Taft-Hartley Labor Act was passed by Congress in 1947, the decision was left to the States as to whether their citizens would be compelled to join unions as a condition of employment. Now, 19 States have right-to-work laws, giving each worker the freedom to join a union or remain a nonmember.

Since 1947 a handful of big labor leaders have kept up the fight to knock out the right-to-work section of Taft-Hartley, section 14(b). Last fall, President Johnson promised to do this if elected. Now he has sent a message to Congress asking for repeal of 14(b)

Many Washington insiders believe the President is paying off a debt for labor's help in his election campaign. Others say he doesn't really care whether the repeal comes through or not. It is a fact that when he was a Senator, he voted in favor of preserving this right to work. However, the bill to repeal was sponsored by Representative FRANK THOMPSON, Democrat, of New Jersey, and hearings are being held by a House labor subcommittee.

Whatever the President's reasons, a man who carried 44 out of 50 States and beat his opponent by 16 million popular votes hardly owes his election to the labor vote.

The cosponsor of Taft-Hartley, former Representative Fred A. Hartley, termed the Presidents recommendations "a ridiculous move."

He pointed out that Bureau of Labor Statisitcs figures show there have been less manhours lost and fewer strikes in right-to-work States than in non-right-to-work States.

Union leaders have spent millions of dollars fighting to repeal State right-to-work laws and millions more to keep States from putting them on the books. A single campaign in California in 1958 was said to have cost $2 million. Naturally, leaders want to get these funds back and into union treasuries. If 14(b) is wiped out, dues and fees from workers forced to join up would recoup these losses. Union leaders feel that nonmembers get a free ride from unions in the 19 States. Whatever the union gets in the way of benefits for members in a shop, nonmembers get too—without paying union dues or fees.

This argument is weak. Many veterans benefit from the activities of the American Legion's campaign for housing, medical care, job opportunities, and the like. Yet they are not Legion members. Busnessmen profit

from the activities of the U.S. Chamber of Commerce, but need not join the chamber. Many Americans benefit from the services of the American Red Cross but no one would argue that all citizens should be compelled to join, whether they want to or not.

Labor leaders also assert that the right to work has kept back economic progress in these States. This just isn't true. In 10 years, 1953-63, nonfarm employment increased 26 percent in right-to-work States but only 10 percent in others. Individual income increased 43 percent against 35 percent for the rest of the country. Real wealth produced 60 percent in right-to-work States; 36 percent in other States.

Industry seems to be attracted to right-to-work States. As Republican Senator PAUL FANIN, of Arizona, has said, "We are convinced that it (right to work) has been an aid to us in our industrial development activities."

Behind the reasons unions give for the repeal of 14(b), one fact stands out. The peak year for union membership was 1956—17.5 million members. In 1962, the latest figures put union members at 16.6 million. This is almost a million members down the drain in 6 short years at a time when 3 million new workers were entering labor's ranks.

Has the Federal Government the right to tell any worker to join or starve? Most Americans don't think so. A recent national public opinion poll showed 67 percent of all people queried, approved of right-to-work laws.

How most of us feel was summarized by a Miami attorney, Bernard B. Weksler, before the U.S. Supreme Court. "This right to work is a large ingredient in the civil liberty of the citizen. The right to work is equivalent to the right to eat; and * * * to make one's bread depend on church or union membership or forced payment of money to a union as a condition of employment would be the worst species of anti-Americanism.

Labor leaders have gone too far in this latest attempt to extend their monopoly powers. Witnesses before the subcommittee say they will press for secret-ballot elections for union membership drives, national right-to-work laws, as well as amendments to do away with most of the special privileges unions now enjoy.

As one of America's great weekly magazines wrote: "Let the Federal Government face up honestly to the fact free collective bargaining is impossible when one party comes to the table with monopoly powers. Labor union membership should be voluntary—not compulsory." But the pressures on the Congress are tremendous, including threats to kill their chances of reelection unless they serve big labor's ambitions. If you believe in freedom of choice instead of compulsion, you would do well to let your Senators and Congressmen know it.

[From the Biloxi-Gulfport (Miss.) Daily Herald, Dec. 11, 1965]

TO AGAIN SEEK REPEAL 14(b)

The advocates of compulsion—that is, of compulsory unionism—have licked their wounds from last session's encounter, and are now preparing to try again to repeal section 14(b) of the Taft-Hartley Act when Congress reconvenes. In a recent letter to union boss Walter Reuther, President Johnson said: "We have made significant progress in 1965 toward the long-sought goal of repealing section 14(b) * * *. We will come back in the next session to remove this divisive provision from the law."

Those Senators who successfully defended 14(b) and the workingman's freedom of choice by filibuster last session have all vowed to stand their ground. But it will take more than just extended debate to win again. Those union leaders and politicians, who consider a workingman's freedom to be divisive of their ambitions, will pull every possible string to make their power over all of us undivided. The people therefore make sure that any move for 14(b)'s repeal next session will be summarily defeated, not just temporarily put off again.

[From the Jackson (Miss.) Clarion-Ledger, Dec. 6, 1965]

ANOTHER POWER GRAB SEEKING TO CONTROL UNEMPLOYMENT SYSTEM

Businessmen and industrialists of Mississippi share the nationwide concern over Federal efforts to gain control over another State function, and that is control over all the State-managed unemployment compensation systems.

The House Ways and Means Committee of Congress has held extensive hearings this year on H.R. 8282 which contains the proposed legislation that would authorize a single federalized unemployment compensation system.

It would replace the individual State-Federal programs which have been operating successfully throughout the country for the last 30 years.

Besides removing the States from controlling positions in administration of unemployment compensation, H.R. 8282 would double the Federal corporate unemployment taxes over the next 3 years, and would force all States to conform to national benefit-eligibility standards despite widely varying regional conditions.

This proposed legislation, as analyzed by the Weekly Labor Forecast and Review, would in effect abolish so-called experience rating, which rewards employers with lower tax rates if they stabilize their employment.

Although this proposed Federal takeover of unemployment is of great significance, news of the committee hearings was submerged by publicity on efforts to repeal section 14(b) of the Taft-Hartley Labor Act which authorizes right-to-work laws, excise tax reduction and other major actions of the first session of the 89th Congress.

It is believe that the House Ways and Means Committee will report out H.R. 8282 for action as early as next February. After House action, this bill would go to the Senate Finance Committee.

Labor unions favor this legislation, while industry and business are opposed to a complete takeover of all State-managed unemployment compensation systems.

The public could be adversely affected by such a change, so the people should join with businessmen in opposing the measure known as H.R. 8282—which is another attempted power grab by Federal bureaucrats.

[From the Leland (Miss.) Progress, Dec. 9, 1965]

NO TIME TO RELAX

The advocates of compulsion—that is, of compulsory unionism—have licked their wounds from last session's encounter, and are now preparing to try again to repeal section 14(b) of the Taft-Hartley Act when Congress reconvenes. In a recent letter to union boss Walter Reuther, President Johnson said: "We have made significant progress in 1965 toward the long-sought goal of repealing section 14(b) * * * We will come back in the next session to remove this divisive provision from the law."

Those Senators who successfully defended 14(b) and the workingman's freedom of choice by filibuster last session have all vowed to stand their ground. But it will take more than just extended debate to win again. Those power-mad union bosses and politicians, who consider a workingman's freedom to be "divisive" of their ambitions, will pull every possible string to make their power over all of us "undivided." We, the people, must therefore make sure that any move for 14(b)'s repeal next session will be summarily defeated, not just temporarily put off again.

Now is the time to do something about it—not waiting until repeal legislation is actually brought up in the next session. Now is the time to tell those 34 Senators and 203 Congressmen who actively opposed repeal last session, how much we appreciate their efforts. Now is also the time we should remind all the others that a vote for repeal of section 14(b) is a vote against the wishes of a majority of their constituents. Next year is congressional election year, and as that day of reckoning draws closer some of those who rubberstamped the union bosses' demand for 14(b)'s repeal last session may become more anxious to please voters than to do the bidding of the President or his union boss friends.

A coalition of Republicans and Democrats in Congress held the line for us last year, against the power play of the union bosses and their puppet politicians. The 2d session of the 89th Congress starts in just a few weeks—January 10, to be exact—so it's our turn now to prevent "a switch rather than a fight." We can do this by again turning loose a flood of mail calling on our Senators to stand firm against the Johnson-Meany-Reuther-Hoffa domestic war on freedom.

[From the Corinth (Miss.) Corinthian, Sept. 15, 1965]

AS WE SEE IT: RIGHT TO WORK AND VOTE?

Some of the most important and far-reaching legislation the current Congress is still considering has to do with labor.

At the top of the list is the drive to repeal section 14(b) of the Taft-Hartley Act which permits States, if they so choose, to enact right-to-work laws. This has passed the House and is now in the Senate. If the Senate succumbs to the powerful, even ruthless, political pressures which demand repeal, rank-and-file working people will be deprived of an absolutely essential right and protection. No matter what their beliefs and wants, they will be forced to join and pay dues to a private organization, a union, or lose their jobs. This is as unthinkable as if Congress passes a law denying a man the right to join a union.

Along with this, another vital issue is at stake. It is the right to vote. This simply means that no union should be certified as bargaining agent for employees without a secret ballot election supervised by the National Labor Relations Board. As of now, certification can be gained on the basis of a card count. The weaknesses in this are glaring. As the Cincinnati Enquirer has said, "Certification of a union as the bargaining agent for a group of employees should not be made on the basis of signatures to cards, as pressures conceivably could be used to obtain these that would not be operative in a secret election. * * * Nor should there be a recognition simply on the basis of a contract between employer and union leader because there have been cases where so-called sweetheart contracts scratched the back of the employer and the union boss but sold out the working man."

The weary charge that right-to-work and right-to-vote laws are "antiunion" is as phony as a $3 bill. They are, instead, protections against exploitation and misrepresentation of the desires and beliefs of the workingman who should have freedom of choice.

[From the Jackson (Miss.) Clarion-Ledger, Dec. 10, 1965]

NEED NEW HOUSE VOTE TO NULLIFY THREAT POSED BY COURT DECISION

There is ample merit in a proposal by the National Federation of Independent Business that Congressmen be given a chance to reconsider their previous vote on repeal of section 14(b) of the Taft-Hartley Act, in view of

the recent Supreme Court ruling favorable to Communists.

In the session just ended, the House voted by a narrow majority to repeal the section which permits 19 States including Mississippi to enact and enforce right-to-work laws. Final action was held up in the Senate.

The recent Supreme Court decision has held it illegal to require Communists to register with the Government. A ruling earlier this year invalidated sections of the Landrum-Griffith Labor Act which prohibited Communists from holding office in labor unions.

The Supreme Court also has agreed to examine a challenge brought against the provision of the Taft-Hartley Act requiring union officers to take an oath disclaiming membership in the Communist Party.

This grim situation, as emphasized by the National Federation of Independent Business, boils down to the fact that there is little protection now against Communists taking over control of labor unions.

The only recourse our people have against the possibility of workers being forced to pay union dues to support Communist programs is for States to enact right-to-work legislation forbidding compulsory payment of dues.

In view of serious dangers created by unfortunate Supreme Court rulings, it is quite probable that many Congressmen who previously voted to repeal section 14(b)—on the basis of party regularity—will want to change their vote on this vital legislation.

Under procedures of Congress, in January the House will not get another opportunity to vote on this measure, despite recent developments, unless parliamentary procedures are employed. It should be done, as quickly as possible after the new session gets under way next month.

[From the Yazoo City (Miss.) Herald, Dec. 23, 1965]

DOES IT HURT WORKERS? 14(b) AGAIN TO BE TARGET

When Congress convenes in January, one of its first orders of business will be legislation to repeal section 14(b) of the Taft-Hartley Labor-Management Act. This provision permits the individual States to ban compulsory unionism, and it has been under strong attack for years by the AFL–CIO.

Repeal of 14(b) was blocked by the Senate in the waning days of the last session. Informed sources report that President Johnson and a majority of both Houses would like to see repeal forgotten. It is argued that 1966 is an election year, and with a preponderant majority of the American people opposed to compulsory unionism and favoring retention of 14(b) (as all polls show), a legislative battle will hurt the administration.

AFL–CIO President George Meany is determined to press for repeal. Other labor leaders concede that the issue has hurt the unions. Off the record, they will admit that repeal will do them little good. The motivation of Mr. Meany's insistence, it is agreed, is emotional rather than practical.

Any battle over voluntary versus compulsory unionism, however, is complicated by the claims of repeal proponents that right to work damages the economy of the States which enact it and hurts the wage earner economically. The basis for this argument is that unions are weakened and greedy management takes advantage of this by lowering wages.

But is this true? Statistics from the Labor Department and the Commerce Department would tend to question those allegations. In fact, they point to increased prosperity and higher pay for the 19 right-to-work States.

Between 1953 and 1963, for example, the hourly earnings of the manufacturing workers increased 46.8 percent in right-to-work States, but only 41.5 percent in compulsory unionism States. The average weekly earnings of production workers in the past 10 years rose 46.8 percent in right-to-work States and only 42.8 percent in those States which permit compulsory unionism. In fact, 6 of the 15 States with the highest weekly earnings for production workers are right-to-work States.

Does employment lag in those States which allow voluntary unionism, as those who seek to repeal 14(b) insist? According to the Labor Department, the rise in new manufacturing jobs in right-to-work States rose 128 percent during the 1953–63 decade. But new manufacturing jobs declined 7.6 percent in non-right-to-work States. The number of production workers in that period rose 3.9 percent in the right-to-work States but fell 14.1 percent in compulsory unionism States.

Annual retail trade sales rose 20.3 percent in right-to-work States, but only 16.7 percent in non-right-to-work States, but only 41.5 percent—or 6 percentage points below the national average—in non-right-to-work States. The same pattern can be seen in bank deposits, motor vehicle registrations, retail trade payrolls, per capita and gross personal income, etc.

Whether or not these gains in the right-to-work States are due to the effects of voluntary unionism on the economy can be debated. But the statistics prove conclusively that the scare talk—that it hurts the wage earner—whose wish to repeal 14(b) is hardly in line with the statistics. When Congress convenes, those facts and figures will most certainly be presented by those who wish to preserve both 14(b) and the voluntary association of workers in free unions.

[From the Natchez (Miss.) Democrat, Nov. 1, 1965]

MUST KEEP UP FIGHT

Just because the effort to repeal section 14(b) of the Taft-Hartley Act has been shelved, we should not let up in efforts to insure the retention of the section, if and when the repealer comes up at the next session of Congress.

And, in preparation for the renewed effort, probably next year, it would be well for opponents to be ready to offer mellowing amendments to the repealer, should the administration through its growing determination and power be able to get approval of the repeal.

In event the above should happen, and goodness knows that we certainly hope not, there is definitely one amendment which should be added.

It is an amendment giving rank and file workers the right to vote by secret ballot on the question of whether they do or do not want to belong to a union. Strangely enough, present regulations deny employees this right, which would seem to be basic, in many cases.

The Leader believes, and often has stated that section 14(b) should be retained in the Taft-Hartley Act. It believes that, if repeal is achieved, it must be accompanied by a right-to-vote provision which will insure that a majority of workers in any particular instance actually do prefer the union.

Under present rules of the National Labor Relations Board, a union can be certified as bargaining agent for employes if the union presents "pledge cards" signed by a majority of the employees. These cards are not substitute for a secret ballot, they are not even secret, and in numerous instances they do not represent the worker's true preference for union membership. They make coersion possible and even likely.

The intent of the "right-to-vote" provision is to make sure that an uncoerced majority of workers wants the union. It would do this by requiring a fair, secret election, and it would permit the use of "preference cards" as a determining factor only if an employer had, by unfair means, destroyed an employee majority.

This, surely, is an amendment to which no legislator, no union leader should object, and it is needed to protect a resaonable, fundamental right of millions of workers.

[From the Jackson (Miss.) News, Nov. 5, 1965]

WHAT IS LEFT TO DO?

Now that one of the most active congressional sessions in the history of the country is concluded, people are wondering what the 89th Congress will do for an encore when its 2d session gets underway next year.

There would seem to be very little left to do. The Great Society has been launched on a tide of laws whose ripples will be felt for decades.

The Presidential proposals which Congress turned down can be counted on the fingers of one hand—such as repeal of the right-to-work clause of the Taft-Hartley law, raising the minimum wage, home rule for the District of Columbia.

The answer given by most observers is that Congress will do very little major lawmaking in 1966, although President Johnson says he will put a "must" label on about 23 bills in another Great Society package.

Compared to the energetic first session, however, even this will amount to more or less tidying up of legislative odds and ends and correction of shortcomings and inefficiencies in some of the Great Society programs. The overall impression will be of sober, moderate democratic leadership which deserves approbation at the polls come November.

The real question in 1966 will be whether it will get it.

The people have given a President a majority of his own party in the legislative branch before, although seldom so decisively as they did in 1964.

Traditionally, however, they have taken away or reduced that majority in nonpresidential election years.

[From the Jackson (Miss.) News, Oct. 26, 1965]

RIGHT-TO-WORK NOISE DIES

The furor over repeal of the right-to-work section of the Taft-Hartley Act has subsided in Congress this year, but by no means is it forgotten.

Labor took a decisive beating in the Senate rejection of any steamroller tactics generated by the administration in other Johnson-favored legislation, but they are not going to remain quiet.

Nineteen States were affected by the drive to deliberately eliminate the one section guaranteeing the right of workers to belong or not to belong to labor organizations as a prerequisite to work.

Mississippi has long advocated and stanchly defended this right of every individual to choose for himself whether he wanted to be represented by a fee-collecting organization or let the merit of his own production set his conduct with management.

Labor claims to have the figures proving that wages are higher, benefits greater and security stronger among workers in States backing union shop.

It might get faster results, and truer to the spirit of early leaders in the land, to redirect some of their expensive lobbying efforts from the Halls of Congress to the factory benches in the country, aiding and insisting on better quality of production.

It is a foregone conclusion that as the next national elections come closer, labor will exert every effort to pressure Congressmen and other candidates for expressions of support for complete union-dominated legislation.

There should be no letup by those still convinced that free enterprise and the right

to work is the individual's choice and not that of organized pressure.

[From the Meridian (Miss.) Star, Oct. 30, 1965]

LEGISLATIVE LULL

Now that one of the most active congressional sessions in the history of the country is concluded, people are wondering what the 89th Congress will do for an encore when its 2d session gets underway next year.

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Compared to the energetic first session, however, even this will amount to more or less tidying up of legislative odds and ends and correction of shortcomings and inefficiencies in some of the Great Society programs. The overall impression will be of a liberal Democratic leadership at the polls come next November.

The people have given a President a majority of his own party in the legislative branch before, although seldom so decisively as they did in 1964.

Traditionally, however, they have taken away or reduced that majority in nonpresidential election years.

If President Johnson can convince the voters to break that pattern in 1966, and give him another topheavy Democratic Congress for 1967 and 1968, it will put him in the driver's seat again, and in a position to hold even tighter to the one-man rule he has now.

[From the Vicksburg (Miss.) Post, Sept. 24, 1965]

RIGHT TO VOTE AND WORK?

Some of the most important and far-reaching legislation the current Congress is still considering has to do with labor.

At the top of the list is the drive to repeal section 14(b) of the Taft-Hartley Act which permits States, if they choose, to enact right-to-work laws. This has passed the House and is now in the Senate. If the Senate succumbs to the powerful, even ruthless, political pressures which demand repeal, rank-and-file working people will be deprived of an absolutely essential right and protection. No matter what their beliefs and wants, they will be forced to join and pay dues to a private organization, a union, or lose their jobs. This is as unthinkable as if Congress passed a law denying a man the right to join a union.

Along with this, another vital issue is at stake. It is the right to vote. This simply means that no union should be certified as bargaining agent for employees without a secret ballot election supervised by the National Labor Relations Board. As of now, certification can be gained on the basis of a card count. The weaknesses in this are glaring. As the Cincinnati Enquirer has said, "Certification of a union as the bargaining agent for a group of employees should not be made on the basis of signatures to cards, as pressures conceivably could be used to obtain these that would not be operative in a secret election * * *. Nor should there be a recognition simply on the basis of a contract between employer and union leader because there have been cases where so-called sweetheart contracts scratched the back of the employer and the union boss but sold out the workingman."

[From the Greenwood, (Miss.) Commonwealth, Sept. 28, 1965]

A BASIC RIGHT

The battle to save section 14(b) of the Taft-Hartley Act—the section which authorizes States to pass right-to-work laws forbidding compulsory union membership as a connection of employment—has not been lost, even though repeal has passed the House. Every legitimate effort is being made to save this essential protection of the worker in the Senate.

At the same time, if 14(b) is repealed the workers can be forced to join and pay dues to a union or join the hungry ranks of the unemployed. Congress should at the very least add another stipulation to the law. This has to do with a tightening up of union certification procedures. That should only be done through secret elections conducted by the National Labor Relations Board. Certification which is gained through the signatures of workers on cards is totally unsatisfactory. Investigations have shown that, at times, signatures are forged or fictitious or have been obtained through fraud, misrepresentation, coercion, or other such methods.

What is at stake here is the right to vote. As the Memphis Press-Scimitar puts it, "If a contract is to bind every employee to pay union dues whether he likes it or not, is it too much to ask for a secret ballot to make sure the union at least has majority support?"

There is nothing antiunion in this. It would make it accurately and truly known whether any group of workers want or do not want union representation. This is, beyond cavil, a basic right, and so is the right of choice to join or not join.

[From the Jackson (Miss.) Clarion-Ledger, Sept. 29, 1965]

FORCING WORKERS TO JOIN UNION IS AN EARMARK OF DICTATORSHIP

Typical of every dictatorship, whether Fascist or Communist, has been compulsory membership in trade unions, so it is more than slightly ironic that the United States should be the first "free country" to attempt compulsory union membership—by efforts to repeal section 14(b) of our Taft-Hartley Labor Act.

Dr. Melchoir Palyi, consulting economist whose authoritative views are featured regularly in the Chicago Tribune, puts the "liberal" drive against right-to-work laws in this light:

If Congress passes the bill to repeal section 14(b), prompted as it is by the President, who was as late as last year on the other side of the fence, it will have led the Nation a great step in the direction of the totalitarians. In one respect, it will have gone further than they. Their unions are institutions of the regime in power; ours are private associations.

It is one thing to be forced into a governmental straightjacket; it is far more inequitable and reprehensible to be forced into a private association that uses the members contributions for its own political and "social" purposes, if not for worse.

VIOLATES U.N. RESOLUTION

The irony is componded by the fact that the imposition of the union shop violates the United Nation resolution of December 10, 1948, called the Universal Declaration of Human Rights. Its article II states explicitly:

1. "Everyone has the right to freedom of peaceful assembly and association.

2. "No one may be compelled to belong to an association."

This declaration was sponsored by Eleanor Roosevelt, before she knew on which side the unions' bread would be buttered. Thereafter, she became a passionate propagandist for what amounts to the suppression of everyone's right to work and free choice of employment that had been reaffirmed in article XXIII of the same declaration. By implication, she also denied a person's right to be a conscientious objector in conflict with a private association serving for private gain.

LITTLE OR NO DIFFERENCE

Legally, the union shop is not a closed shop; in reality, the difference is little more than nominal. Legally, the employee has "only" to pay his initiation fee and dues. But once he is forced to pay dues the union bosses usually find it easy to force on him all the obligations of membership.

[From the Natchez (Miss.) Democrat, Sept. 18, 1965]

RIGHT-TO-WORK LAW

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At the top of the list is the drive to repeal section 14(b) of the Taft-Hartley Act which permits States, if they so choose, to enact right-to-work laws. This has passed the House and is now in the Senate. If the Senate succumbs to the powerful, even ruthless, political pressures which demand repeal, rank-and-file working people will be deprived of an absolutely essential right and protection. No matter what their beliefs and wants, they will be forced to join and pay dues to a private organization, a union, or lose their jobs. This is as unthinkable as if Congress passed a law denying a man the right to join a union.

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The weary charge that right-to-work and right-to-vote laws are "antiunion" is as phony as a $3 bill. They are, instead, protections against exploitation and misrepresentation of the desires and beliefs of the working man who should have freedom of choice.

[From the Biloxi (Miss.) Herald, Sept. 18, 1965]

RELIGIOUS EXEMPTIONS

We thought that the lowest in political hypocrisy had been achieved by those Congressmen who claimed that they were insuring the workingman's economic freedom by voting to repeal section 14(b) of the Taft-Hartley Act. But now the Senate Labor Subcommittee, headed by Senator MORSE, of Oregon, has endorsed repeal of section 14(b) and additionally proposed an amendment which would, in effect, make the National Labor Relations Board and labor officials the overseers of some worker's religious beliefs, while pretending to guarantee freedom of conscience.

To be exempt from joining and paying dues to a labor union, under the amendment, a workingman would have to: (1) obtain a certificate by the National Labor Relations Board (that he) holds conscientious objections to membership in any labor organization based upon his religious training and beliefs, and (2) have timely paid, in lieu of periodic dues and initiation fees, sums equal

to such dues and initiation fees to a nonreligious charitable fund exempt from taxation * * * designated by the labor organization.

This would make the National Labor Relations Board the authority for religious exemptions for a workingman joining a union. That a Senator would propose or endorse such an amendment, even under the pretext of guaranteeing religious freedom, is evidence that he realizes the repeal of section 14(b) would deprive the workingman of freedom in the first place.

[From the Biloxi (Miss.) Herald, Nov. 26, 1965]

ACTION BY NATIONAL CHAMBER OF COMMERCE

Rather than slowing down between congressional sessions, the National Chamber of Commerce has stepped up its activities in preparation for the convening January 10, of the 2d session of the 89th Congress.

The goal: To press effectively for private enterprise solutions to economic, social, technical, and other problems.

More than 20 national chamber committees, task forces, and study groups with help from outside experts are examining national problems and proposing solutions. Conferences, seminars, and meetings are being held all over the country.

Special attenion is being given to issues which will likely be debated in the next congressional session, including but not limited to: Repeal of Taft-Hartley section 14(b), increased minimum wage, federalization of unemployment compensation, consumer credit and packaging and labeling controls, labor law reform, water supply projects, urban renewal and poverty programs, rent subsidies, and transportation improvement.

Chamber headquarters for the task ahead are the legislative department, Government relations department, and 13 departments involved in program development.

The legislative department has held an advisory conference on congressional action with the chairmen of 16 congressional action committees from communities of various sizes.

The purpose is to refine and upgrade the CAC operation so as to enable business and professional men to be more effective in telling their Congressmen how they feel about particular issues.

The legislative department will provide a complete blueprint for organizing and conducting a congressional action committee in local chambers, or trade or professional groups. More than 1,300 are in operation, involving more than 30,000 business and professional men and women.

A special advisory committee is at work planning strategy on unemployment compensation legislation, which will be a major issue.

[From the Greenville (Miss.) Delta Democrat-Times, Nov. 26, 1965]

ILL-TIMED STRIKE

A powerful labor union threatened to delay America's Gemini space effort with an ill-advised strike which idled 71,000 machinist at the giant McDonnell Aircraft Corp. The strike conceivably could have put the United States far behind in the space race. Certainly, the ill-timed strike was not in the best interests of the Nation's space effort. And, this is not by any means the first time that national interests and labor interests have seriously conflicted. The fight over labor's insistence on repeal of section 14(b) of the Taft-Hartley Act represents just one other recent conflict of national and union interests. In that scrap, labor leaders sought to secure additional union strength at the expense of the Nation's labor force by banning right-to-work laws in 19 States.

No one can dispute labor's right to seek advantages for its members. And no one can seriously fault the strike as a potent collective bargaining weapon.

But, it would seem that some legislation is in order to prevent costly labor walkouts on Federal projects, especially when an ill-timed strike can adversely affect crucial Government timetables, such as the timetable for the Gemini shot. If the McDonnell machinists must strike, it seems the union could have postponed its walkout until after the planned Gemini shot without seriously damaging its bargaining power. And since the Gemini shot was scheduled well in advance, there seems no reason why announcement of a labor strike, or plans for the strike, were delayed until the 11th hour, wasting the time of countless Government labor workers and officials, to say nothing of the cost to American taxpayers.

It is, however, to the union's credit that workmen on the Gemini project were allowed to return to their jobs in order to keep plans for the space shot on schedule—even though the rest of the union's members remained on strike. But the walkout did keep Gemini workers off their jobs for several days, until union officials relented and allowed them to resume preparations for the Gemini shot. The delay undoubtedly was costly. Certainly it was not beneficial to the overall preparations for the Gemini space rendezvous even though NASA officials now say it's still possible to adhere more or less to the original timetable.

Perhaps legislation to force labor unions to give adequate warning of strike plans would help ease the situation. Such legislation seems especially important when Federal projects are involved. It seems senseless to allow a small minority of labor officials to order union moves which directly affect the lives of all Americans.

The labor unions, traditionally, have provided good and useful service to American workers and, ultimately, to industry as well. But walkouts such as the one affecting the Gemini space shot seem to indicate that labor's usefulness to the Nation could be increased by legislation which would prevent costly, ill-timed strikes.

[From the Biloxi (Miss.) Herald, Nov. 20, 1965]

RIGHT TO WORK

As reported by the press, President Johnson, Vice President HUMPHREY, and Labor Secretary Wirtz have all stated repeal of section 14(b), allowing State right-to-work laws, is a must piece of legislation for the second session. A determined group of Senators kept this House passed bill, H.R. 77, from reaching a final vote this year and are said to be just as determined to subject the measure to extended debate when it is brought up next year.

The unions are expected to unleash all their power to secure passage in 1966. It is expected to be a hard and close fight when the Senate resumes consideration of this issue probably early next session. The Senate is considered fairly evenly divided with the odds perhaps slightly favoring those supporting repeal.

[From the Jackson (Miss.) Clarion-Ledger, Nov. 27, 1965]

LABOR CAUSE MAY LOSE PRESTIGE BY ANOTHER RIGHT-TO-WORK FIGHT

The President has indicated plans to renew his administration's fight to repeal section 14(b) of the Taft-Hartley Labor Act which allows 19 States including Mississippi to have right-to-work laws. Talk now is that powerful union leaders are pressuring the White House for early action in this matter.

There is still cause to hope that labor's big shots will think better of efforts to renew this controversial drive, since the recent Senate debates provided such a surprising insight into the country's attitude toward the power of unions.

Thurman Sensing, executive director of the Southern Industrial Council, points to widespread agreement that unions should not be allowed to dominate the job-getting and job-holding process in the United States.

If AFL–CIO leaders insist on another campaign to repeal right-to-work laws by emasculating the Taft-Hartley Act, they may find themselves up against a complete reconsideration of American labor law at a time when the national temper is not especially favorable toward unionization.

What the union bosses must realize, says Thurman Sensing's pertinent analysis, is that they must devote their efforts to gaining members by merit, not by force. The American people have not yet been browbeaten to the point where they will willingly submit to compulsion.

For several years, a number of social commentators have suggested that the union movement in America is on the skids. They have stressed the inability of unions to win converts among white-collar employees of business and industry. Union corruption and mismanagement has been a factor in this trend.

Another significant favor noted by the Southern Industrial Council leader is the spread of education in this last generation. Americans who have gone through school since the 1940's are better informed than many of their elders, and it is increasingly difficult to sell them the notion that "management" is a sort of enemy of workers holding jobs in free enterprise.

Labor leaders can lose far more than they hope to gain by pressuring the White House to give them life-and-death powers over national employment.

Mr. EASTLAND. Mr. President, in the May 1965 edition of the Mississippi Law Journal, volume XXXVI, there appears an enlightening, scholarly, and comprehensive analysis of the present legal status of our State right-to-work laws as affected by judicial decisions concerning the constitutional doctrine of preemption. The article was written by an outstanding young Mississippi lawyer and is entitled "State Jurisdiction and Union Security—Another Look at the Right-To-Work-Law."

I ask unanimous consent to have it printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STATE JURISDICTION AND UNION SECURITY—ANOTHER LOOK AT THE RIGHT-TO-WORK LAW

(By Robert C. Travis, Wise, Smith & Carter, Jackson, Miss.)

I. INTRODUCTION

The success or failure of unions rests finally on achievement of the objectives of their members, but some union objectives are directly concerned with the welfare and strength of the unions themselves, and only indirectly with the benefit of the individual workingman. Such a group of objectives may be referred to under the broad heading of "union security."[1] The term "union security" is understood to mean all forms of compulsory unionism, including checkoff of union dues. Compulsory unionism covers all arrangements under which union membership becomes in greater or lesser degree, a condition of employment. Generally based upon an agreement between an employer and

[1] See generally Murphy, The "Right To Work" Statute, 26 Miss. L.J. 39, 40 (1954). (Reasons for and against union security devices are analyzed.)

a union, compulsory unionism gives the union a power over employment originally held only by the employer, and, in fact, it represents a grant of power by the employer to the union. In its strongest expression, the closed shop agreement, compulsory unionism leaves to the union virtually complete control over hiring—a man seeking a job must be a union member.

The five basic types of compulsory unionism are: (1) the closed shop, (2) the union shop, (3) maintenance of membership, (4) preferential hiring, and (5) agency shop.[2] Compulsory unionism has been strictly regulated by Federal legislation. The closed shop and preferential hiring have been indirectly abolished by the provisions of section 8(a)(3) of the National Labor Relations Act,[3] and the union shop and maintenance of membership have been allowed only on certain conditions.[4] The agency shop, a relatively new form of union security, has been held lawful by the U.S. Supreme Court.[5]

So-called right-to-work laws, such as the Mississippi right-to-work statute,[6] have been sanctioned by section 14(b) of the NLRA which provides that the States may forbid "agreements requiring membership in a labor organization as a condition of employment."[7] Where applicable, these State laws supersede the NLRA provisions permitting union security contracts, but do not prevail over the union security provisions of the Railway Labor Act.[8]

No employer whose activities affect interstate commerce may enter into a closed shop or preferential hiring agreement.[9] Additionally, if an employer, except a carrier subject to the Railway Labor Act, is located in a State in which union shop or maintenance of membership agreements are prohibited, such as is the case of a Mississippi employer, he is also precluded from executing those types of agreements.[10] By being precluded from executing these forms of union security agreements, the employer is likewise precluded from the necessity of engaging in collective bargaining over provisions in contracts relating to these forms of union security. For the employer in Mississippi, the subject matter of collective bargaining conferences is thus reduced considerably.

For strictly intrastate employers—those whose activities do not affect commerce—and for employers in operations over which the NLRB will not exercise its jurisdiction, the NLRA does not apply.[11] It should be noted that the NLRB has never been either willing or able to exercise its jurisdiction over all labor disputes affecting interstate commerce. The Board has, therefore, limited its own jurisdiction by establishing certain guidelines.[12] These guidelines were given express statutory approval in 1959 by the Labor Management Reporting and Disclosure Act, subject to the proviso that the Board may not decline cases meeting the guidelines which prevailed on August 1, 1959.[13]

II. DOCTRINE OF PREEMPTION

In *Garner* v. *Teamsters, Local 776*,[14] the U.S. Supreme Court enunciated the "preemption doctrine" in the field of labor relations. The Court held that where interstate commerce was affected, Federal laws preempted State jurisdiction to the extent that they either prohibited or protected conduct in employer-employee relations. State laws regulating the same conduct or activity could not be applied. The NLRB was charged with the administration of federal law and its jurisdiction was exclusive, even though it had actually declined, or would decline, under self-imposed restraints to exercise its jurisdiction.

The NLRB's policy of refusing to exercise jurisdiction over certain disputes not meeting its guidelines gave rise to the question of the availability of State protection for persons injured by unfair practices, but unable to obtain relief from the NLRB. This question was answered initially by the now famous decisions in *Guss* v. *Utah Labor Relations Bd.*,[15] *San Diego Bldg. Trades Council* v. *Garmon*,[16] and *Meat Cutters, Local 427* v. *Fairlawn Meats, Inc.*[17] in which the Supreme Court ruled that the NLRB completely displaced State jurisdiction even in those cases where the Board had declined or likely would decline jurisdiction. In Guss, the Court stated:

"We are told by appellee that to deny the State jurisdiction here will create a vast no man's land, subject to regulation by no agency or court. We are told by appellant that to grant jurisdiction would produce confusion and conflicts with Federal policy. Unfortunately, both may be right. We believe, however, that Congress has expressed its judgment in favor of uniformity. Since Congress' power in the area of commerce among the States is plenary, its judgment must be respected whatever policy objections there may be to creation of a no man's land. Congress is free to change the situation. * * *"[18]

Two years later Congress did change the situation by amending the NLRA, adding section 14(c)(2)[19] which provided that nothing in the NLRA should be deemed to prohibit any State from asserting jurisdiction over disputes declined by the NLRB under its jurisdictional guidelines. The express purpose of this legislation was to eliminate the no man's land created by Guss. The Supreme Court's preemption doctrine did, however, continue to apply with respect to those cases in which the Board could and would exercise jurisdiction.

The expanding concept of Federal preemption has obviously narrowed the jurisdiction of the States. For a time after Garner,[20] it appeared that the area left for State regulation was substantial. The States apparently retained jurisdiction over labor activity, not specifically regulated by Federal law. As the full import of the preemption doctrine developed, however, jurisdiction of the States became more and more limited.

For jurisdictional purposes, strikes, picketing, and other concerted activities may be categorized into three areas. Some of these activities, like the ordinary economic strike and related picketing in industries affecting commerce, come clearly within the protection of section 7 of the NLRA.[21] Clearly prohibited as unfair labor practices under section 8(a) and 8(b)[22] are other kinds of employer and union activities. The States do not have jurisdiction to prohibit or otherwise regulate this activity because the State remedy would conflict with the remedy provided by the NLRA. Still there is some activity not protected under the Federal law by section 7, nor proscribed in section 8(a) and 8(b), and it is in this area, not regulated by Federal law, that the States have been free to act in regulating certain union activities. This principle was recognized by the Supreme Court in *Automobile Workers, AFL, Local 232* v. *Wisconsin Employment Relations Bd.*[23] In this case the union conducted a series of intermittent walkouts. The Court, without a prior determination by the Board, ruled that this strike technique was not a protected activity under section 7. It noted that the activity likewise fell outside the proscriptions of section 8(b) relative to unfair labor practices. The Court held that the State was free to act in this area and that a State board could issue an order to restrict the union strike activity.

After Garner,[24] there followed a whole series of decisions by State courts permitting injunctions against activity not covered by the Federal law.[25] In other cases arising under the NLRA, the Board and the Federal courts further defined areas of "unprotected activity."[26]

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[2] See generally 2 CCH Lab. Rel., Lab. L. Rep. pars. 4500–4600, for a full discussion of all forms of union security devices.

[3] 73 Stat. 525 (1959), 29 U.S.C. sec. 158(a)(3) (1958), as amended, 29 U.S.C. sec. 158(a)(3) (Supp. V, 1959–63). For convenience, the National Labor Relations Act is sometimes abbreviated "NLRA" and the National Labor Relations Board is abbreviated either "NLRB" or "Board" in this article.

[4] See generally 2 CCH Lab. Rel., Lab. L. Rep. par. 4520.

[5] *NLRB* v. *General Motors Corp.*, 373 U.S. 734 (1963). Section 8(a)(3) permits agency shop agreements under which employees are required, as a condition of employment, to pay union sums equal to union membership dues and fees. The Court found agency shops were practically equivalent to union shops since the only membership obligations enforceable under a union shop contract are those relating to payment of periodic dues and fees.

[6] Miss. Const., art. 7, sec. 198–A; Miss. Code Ann., sec. 6984.5 (Supp. 1964).

[7] Labor Management Relations Act (Taft-Hartley Act) sec. 14(b), 61 Stat. 151 (1947), 29 U.S.C. sec. 164(b) (1958).

[8] 64 Stat. 1238 (1951), 45 U.S.C. secs. 151(a), 152 (1958). The Railway Labor Act as amended, specifically authorizes union shop contracts notwithstanding any other statute or law of any State and therefore, it preempts the field. State right-to-work laws, therefore, furnish no basis for enjoining carriers from enforcing union shop contracts authorized and executed under the provisions of sec. 11. See, *e.g.*, *Railway Employees Dep't* v. *Hanson*, 351 U.S. 225 (1955).

[9] See note 3 supra.

[10] The right-to-work law in Mississippi is aimed at all forms of union security devices. See note 6 supra.

[11] Application of the NLRA to a particular case is determined by whether or not a "labor dispute" if one exists, would tend to burden, obstruct, or, in general, "affect" interstate or foreign "commerce." If it would, the statute applies and the NLRB has authority to act. The terms, "labor dispute," "affecting commerce," and "commerce" are terms of art defined in the act itself at sec. 2. See generally 1 CCH Lab. Rel., Lab L. Rep. par. 1610.

[12] NLRB press release No. R–576, Oct. 2, 1958.

[13] Labor Management Reporting and Disclosure Act of 1959 sec. 701(a), 73 Stat. 541 (1959), 29 U.S.C. sec. 164(c) (Supp. V, 1959–63).

[14] 346 U.S. 485 (1953).

[15] 353 U.S. 1 (1957).

[16] 353 U.S. 26 (1957).

[17] 353 U.S. 20 (1957).

[18] *Guss* v. *Utah Labor Relations Bd.*, supra note 15, at 10–11.

[19] Labor Management Reporting and Disclosure Act of 1959 sec. 701(2), 73 Stat. 541 (1959), 29 U.S.C. sec. 164(c)(2) (Supp. V, 1959–63).

[20] *Garner* v. *Teamsters, Local 776*, 346 U.S. 485 (1953).

[21] 61 Stat. 140 (1947), 29 U.S.C. sec. 157 (1958).

[22] National Labor Relations Act secs. 8(a), (b), 49 Stat. 452 (1947), 29 U.S.C. sec. 158(a), (2) (1958).

[23] 336 U.S. 245 (1949).

[24] *Garner* v. *Teamsters*, Local 776, supra note 20.

[25] E.g., *Co-operative Refinery Ass'n* v. *Williams*, 185 Kans. 410, 345 P. 2d 709 (1959), cert. denied, 362 U.S. 920 (1960).

[26] E.g., *Automobile Workers* v. *McQuey, Inc.*, 351 U.S. 959 (1965) (mass picketing, threatening employees with physical injury or property damages, obstructing entrance to and exits from employers' property, obstruct-

In order to secure a remedy in State court against union activity, an employer has the dual problem of showing that the activity is neither protected under section 7, nor prohibited under section 8(b) of the NLRA, and that it thus falls within an area subject to State court jurisdiction. Obviously, an employer must also state a cause of action entitling him to relief under the State law. Prior to the Supreme Court's decision in *San Diego Bldg. Trades Council* v. *Garmon*,[27] in 1959, numerous State court decisions held that union activity could be regulated where one of its prime purposes was directed at activity in violation of State policy expressed in State right-to-work laws.[28] Following Garmon, decisions in later cases have left less room for State regulation of labor disputes on the basis of local law and policy.

III. JURISDICTION TO DETERMINE "ACTIVITY ARGUABLY PROTECTED OR PROHIBITED"

In the now famous Garmon decision,[29] the Supreme Court determined that the NLRB must make the first determination wherever union activity is "arguably protected or prohibited by Federal law." The Court stated that the basic consideration is whether or not there is a ground for argument that the activity is either protected or prohibited by the NLRA. It emphasized the exclusive competence of the Board to make the determination whether the activity is "arguably" subject to section 7 or section 8. The primary jurisdiction thus rests with the NLRB. The Court said:

"In the absence of the Board's clear determination that an activity is neither protected nor prohibited or of compelling precedent applied to essentially undisputed facts, it is not for this Court to decide whether such activities are subject to State jurisdiction."[30]

The Garmon rule has been followed by the Supreme Court in subsequent cases.[31]

It is axiomatic that most concreted activities coming to the attention of the court may "arguably" be regulated by Federal law. Therefore, the primary jusidiction to determine coverage, and hence preemption, usually rests with the NLRB, but the party desiring that determination may have a difficult problem. If the conduct in question is arguably prohibited by Federal law, a determination of that question can be obtained through the filing of an unfair labor practice charge under section 8.[32] However, if the question relates to the protected nature of the activity under section 7,[33] there is no practical way to secure a determination of that question. An activity that is arguably projected is apparently removed from the State jurisdiction as effectively as one that is fully protected.

The NLRB has made determinations regarding the protected or unprotected nature of various kinds of employer or union activities, but these rulings have been made generally in cases where employers or unions were charged with unfair labor practices under section 8(a) or section 8(b). If an employer is charged with discharging an employee because of his participation in a particular concerted activity, the Board must determine whether the activity is protected by section 7. If it is protected, the employer is guilty of an unfair labor practice. If it is unprotected, the employer is free to discharge employees for their participation in it, but the employer cannot go to the Board and secure a determination of the protective or unprotective nature of their activity.[34] He must act on his own in either firing or retaining the employee, or subjecting him to other disciplinary measures, and face the possible consequences which may later be brought out in a charge against him for an unfair labor practice.

Where there is violence or an imminent threat to the public order, the States have jurisdiction to grant injunctions and to award damages.[35] Activity of this kind brings into play the State's police power, and the State jurisdiction is not defeated by the fact that the same coercive activity may also constitute an unfair labor practice under the NLRA.[36] State jurisdiction in this area is largely unaffected by the doctrine of Federal preemption even in its expanded form following the Garmon decision.

IV. JURISDICTION UNDER RIGHT-TO-WORK STATUTES

Some of the more recent significant developments in the field of Federal preemption have involved the State right-to-work laws. As previously noted, under section 14(b) of the NLRA, the States are permitted to restrict the union security arrangements which would otherwise be permitted under the proviso of section 8(a)(3).[37] Although the State's right to have a so-called right-to-work law is specifically protected by the NLRA, there has always been a question about the effect of such a law on section 8(a)(3) itself, and about the extent of the State's power to enforce a right-to-work law.

Any arrangement or contract requiring union membership as a condition of employment would constitute an unfair labor practice under section 8(a)(3), unless it came within the proviso clause of section 8(a)(3).[38]

The proviso premits a union shop contract with a 30-day escape period. It could be argued that the effect of the State right-to-work law is merely to eliminate the benefit of the proviso to section 8(a)(3) so that section 8(a)(3) could be read without any saving factor whatsoever, resulting in a requirement that any union security contract in a State like Mississippi, having a right-to-work law outlawing all forms of union security, will constitute a violation of section 8(a)(3). Any union security contract, or any discharge thereunder, would be an unfair labor practice under section 8(a)(3), and it could be argued that the States, in this situation, would be powerless to enforce the right-to-work statute specifically permitted by section 14(b).

Under the opposing view, a right-to-work law could be enforced in State court by enjoining the contract or discharge thereunder where the contract violated the State right-to-work law. From this viewpoint, a union security arrangement within the proviso of section 8(a)(3) would not constitute an unfair labor practice even though it occurs in a right-to-work law State.

With regard to a State's power to enforce its right-to-work law, a distinction must be drawn between actions involving enforcement of outlawed union security contracts, and actions involving picketing or other forms of concerted activities where one of the objects of the activity is to force an employer to sign a union security arrangement in contravention of State law.

Several significant cases have dealt with the State's power to enforce its right-to-work law by enjoining picketing where one of the objects of the picketing was to force the employer to sign a union security contract illegal under the State law. In the Farnsworth[39] and Curry[40] cases, the Court found that peaceful picketing was being conducted with an object of forcing the employer to enter into a union security arrangement which was illegal both under State law and under section 8(a)(3). The Court found that there was "arguably" an unfair labor practice involved under section 8(b). For this reason the Court held that Federal preemption applied and that the States did not have jurisdiction to enforce their right-to-work law by enjoining the picketing even though the violation clearly involved the State law. Prior to Garmon[41] in 1959, numerous State court decisions had been to the contrary.[42]

Reaching a similar result, the Supreme Court dealt rather summarily with the only Mississippi case decided on this question, *Hattiesburg Bldg. & Trades Council* v. *Broome*.[43] In *Broome*, a labor organization picketed an oil refinery for the purpose of forcing the refinery to require a nonunion industrial maintenance firm doing work at the refinery to sign an exclusive hiring hall agreement with the union. An injunction was obtained in chancery court and upheld by the Mississippi Supreme Court in a lengthy opinion where the court found that the object of the picketing was to force Broome to employ only union labor in violation of Mississippi's right-to-work law. The Court attempted to distinguish the Farnsworth[44] and Curry[45] cases on the grounds that in Broome there was not even "arguably" an unfair labor practice involved since there was no labor dispute between Broome

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ing; streets and public roads surrounding plant, and picketing homes of employees); *Automobile Workers, AFL, Local 232* v. *Wisconsin Employment Relations Bd.*, 336 U.S. 245 (1949) (temporary work stopages).

[27] 359 U.S. 236 (1959).

[28] E.g., *International Ass'n of Machinists, AFL* v. *Goff-McNair Motor Co.*, 223 Ark. 30, 264 S.W. 2d 48 (1954). See generally Murphy "The Right To Work" statute, 26 Miss. L.J. 39, 47 (1954).

[29] *San Diego Bldg. Trades Council* v. *Garmon*, 359 U.S. 236 (1959).

[30] Id. at 246.

[31] E.g., *Construction & Gen. Laborers' Union, Local 438* v. *Curry*, 371 U.S. 542 (1963).

[32] National Labor Relations Act, sec. 8, 49 Stat. 452 (1947), 29 U.S.C., sec. 158 (1958).

[33] National Labor Relations Act, sec 7, 49 Stat. 452 (1947), 29 U.S.C., sec. 157 (1958).

[34] There is no provision made in the NLRA for advisory opinions, except advisory opinions may be secured from the Board in order to resolve doubt as to whether or not the Board would assert jurisdiction of a case based on its current jurisdictional standards. See 29 C.F.R. secs. 102.98–102.110 (1959). These advisory opinions, however, are specifically limited to the jurisdictional issues involved in a particular matter and do not pertain to the merits of a case or to the question of whether the subject matter of the controversy is governed by the NLRA. *Spears-Dehner, Inc.*, 139 NLRB 922 (1962).

[35] E.g., *International Woodworkers* v. *Fair Lumber Co.*, 232 Miss. 401, 99 So. 2d 452 (1958); *United Bhd. of Carpenters of America* v. *Pascagoula Veneer Co.*, 228 Miss. 799, 89 So. 2d 711 (1956); *Southern Bus Lines, Inc.* v. *Amalgamated Ass'n of St., Elec. Ry. & Motor Coach Employees*, 205 Miss. 354, 38 So. 2d 765 (1949). The NLRA does not deprive State courts of jurisdiction over traditionally local matters of public safety and order such as mass picketing, threats and violence, obstruction of streets or picketing of homes.

[36] E.g., *International Ladies Garment Workers Union, Local 415* v. *Sherry Mfg. Co.*, 115 So. 2d 27 (Fla. 1959).

[37] E.g., *Algoma Plywood & Veneer Co.* v. *Wisconsin Employment Relations Bd.*, 336 U.S. 301 (1949).

[38] National Labor Relations Act sec. 8(a)(3), as amended by sec. 201(e) of Labor Management Reporting and Disclosure Act in 1959, 73 Stat. 525 (1959), 29 U.S.C. sec. 158(a)(3) (1958), as amended, 29 U.S.C. sec. 158(a)(3) (Supp. V, 1959–63).

[39] *Farnsworth & Chambers Co.* v. *Local 429, Int'l Ghd. of Elec. Workers, AFL*, 201 Tenn. 329, 299 S.W. 2d8, rev'd mem., 358 U.S. 969 (1957).

[40] *Construction & Gen. Laborers' Union, Local 438* v. *Curry*, supra note 31.

[41] *San Diego Bldg. Trades Council* v. *Garmon*, supra note 29.

[42] E.g., *Grimes & Harver, Inc.* v. *Pollock*, 163 Ohio St. 372, 127 N.E. 2d 203 (1955).

[43] 84 Sup. Ct. 1156 (1964).

[44] See note 39 supra.

[45] See note 40 supra.

and his employees and since Broome was not engaged in interstate commerce. The Court rejected both contentions and found that the union's activities were arguably unfair labor practices, subject to the exclusive jurisdiction of Federal law.

On the question of whether or not a State has the power to enforce its ban on various forms of union security agreements, the Supreme Court has reached a different result. In *Retail Clerks Int'l Ass'n* v. *Schermerhory*,[46] a case decided under the Florida right-to-work statute, the Court considered the validity and enforceability of an "agency shop" arrangement. The union and the employer negotiated a collective bargaining agreement that contained an agency shop clause providing that the employees covered by the contract who chose not to join the union were required "to pay as a condition of employment, an initial service fee and monthly service fees" to the union. Nonunion employees brought suit in a Florida court to have the agency shop clause declared illegal and to have an injunction issued against enforcement of the contract. The Florida Supreme Court held that this union security contract violated the Florida right-to-work statute and that the Florida courts had jurisdiction to issue an injunction enjoining enforcement of the contract. The U.S. Supreme Court agreed. First, the Court concluded that the arrangement whereby nonunion employees were required to pay service fees equal to regular membership dues to the union was tantamount to a union shop contract for the purpose of section 14(b) and section 8(a)(3). It likewise held it was for the State to determine whether such an arrangement violated State law, and the Court considered itself bound by the State court ruling.

In Schermerhorn, the Court enunciated the policy that section 14(b) must be construed as recognizing State authority to invalidate federally permissable union security contracts:

"We start from the premise that, while Congress could preempt as much or as little of this interstate field as it chose, it would be odd to construe section 14(b) as permitting a State to prohibit the agency clause but barring it from implementing its own law with sanctions of the kind involved here." [47]

Since section 14(b) constitutes congressional recognition of the fact that a uniform national policy with respect to union security contracts is not necessarily desirable, the Court said that violations of a State right-to-work law should not be found to be unfair labor practices capable of being enforced only under Federal law. In its holding the Court went one step further in stating that the jurisdiction of State courts in these cases extended only to penalizing the actual making of the union security contract and of enjoining the enforcement or the making of the contract. It stated that picketing by a labor organization to compel an employer to enter into a union security contract, even though the contract would definitely be in violation of the State right-to-work law, was still an activity subject either to Federal protection or prohibition, and thus could not be dealt with except under the provisions of the NLRA. The Court emphasized that the State powers begin "only with actual negotiation and execution of the type of agreement described by § 14(b)." [48] In the absence of such an agreement the Court said that conduct was "arguably" an unfair labor practice, and thus one, which, under the Garmon decision,[49] was subject to Federal preemption.

Thus, a State agency may issue a cease-and-desist order against an employer to restrain him from giving effect to a maintenance of membership agreement and order the reinstatement with back pay of an employee discharged in violation of a State union security law; [50] but picketing in order to get an employer to execute an agreement in violation of a State union security statute would lie exclusively in the Federal domain, because the State power recognized and contemplated by section 14(b) begins only with the actual negotiation and execution of the type of agreement described by that section.[51]

There is still some doubt concerning the State's jurisdiction to regulate picketing where the object of that picketing is to secure a union-shop contract within the provisions of section 8(a)(3), and where the contract would, if executed, violate the State's right-to-work law. The dictum in the *Schermerhorn* [52] case appears to indicate that the states would not have such power. However, this point has not been specifically litigated. If the contract sought by the union is clearly within the proviso to section 8(a)(3), and not violative of any other provisions of the NLRA, it does not appear that the picketing would constitute even arguably an unfair labor practice. Since the contract would still violate a State law permitted under section 14(b), it appears doubtful that the activity could be considered as coming within the protection of section 7.[53] However good the logic of this approach may be, in view of *Schermerhorn*, it appears that state jurisdiction of peaceful picketing has been ousted.

V. CONCLUSION

In spite of the apparently ever-narrowing field of State jurisdiction over labor matters, the Mississippi right-to-work statute continues to be an effective bulwark of employee freedom or a thorn in the side of unionism, depending upon one's point of view. Although the future of section 14(b) appears in doubt, while it remains in effect, all forms of union security devices are banned in Mississippi under the broad language of our statute. Employers are not obligated nor permitted to bargain collectively on the subject of union security. The subject matter of collective bargaining is thus effectively reduced.

Though picketing and other forms of employee activities may not be the subject of state jurisdiction where the activity is "arguably" protected or prohibited under the NLRA, there is still an area subject to state jurisdiction. The state's police power remains unaffected by the NLRA and states may exercise jurisdiction in those matters over which the NLRB declines jurisdiction under its jurisdictional guides. State jurisdiction is not curtailed by the NLRA unless a dispute affects interstate commerce.

Mr. ALLOTT. Mr. President, on May 18, 1965, the President of the United States transmitted to the Congress his labor message. Tacked on to the end of that message, which dealt primarily with fair labor standards and unemployment insurance, was the President's request for the repeal of section 14(b) of the Taft-Hartley Act. The President devoted only 1 sentence, containing less than 50 words to his request for repeal of section 14(b). It is appropriate that that part of the President's labor message be quoted here:

Section 14(b) of the National Labor Relations Act. Finally, with the hope of reducing conflicts in our national labor policy that for several years has divided Americans in various States, I recommend for the repeal of section 14(b) of the Taft-Hartley Act with such other technical changes as are made necessary by this action.

Then on January 12, 1966, in his state of the Union message, the President alluded to the repeal of section 14(b) of the Taft-Hartley Act in these words:

And by the repeal of section 14(b) of the Taft-Harley Act to make the labor laws in all our States equal to the laws of the 31 States which do not have, tonight, right-to-work measures.

Before going on to the legislative history of Taft-Hartley, I should like to call to the attention of Senators the contents of the paragraph immediately following the President's mention of the repeal of section 14(b) just quoted. In his state of the Union message, the President also said:

I also intend to ask the Congress to consider measures which without improperly invading State and local authority will enable us effectively to deal with strikes which threaten irreparable damage to the national interest.

I find it rather interesting if not inconsistent that the President asks that section 14(b) of Taft-Hartley be repealed without regard for "improperly invading State and local authority," and in his next sentence he expresses concern over "improperly invading State and local authority."

Because this is an issue with such broad implications that it will affect the lives of millions of our citizens directly and millions more indirectly, it is both timely and appropriate that we review Mr. Johnson's voting record on the law he now asks Congress to repeal in part. The American people have a right to know the facts.

On April 17, 1947, Mr. Johnson joined with 307 of his colleagues in the House of Representatives in voting for passage of the Hartley bill, H.R. 3020—later called the Taft-Hartley. It should be noted at this point that a provision of similar import to 14(b) was contained in the House bill—H.R. 3020—as section 13. Later, on June 4, 1947, Mr. Johnson joined with 319 of his colleagues in approving the conference report on the Taft-Hartley bill. I believe it is particularly pertinent to review, at this point, what the managers on the part of the House of Representatives said relative to section 14(b), as approved by the House of Representatives and by Mr. Johnson:

Under the House bill there was included a new section 13 of the National Labor Relations Act to assure that nothing in the act

[46] 373 U.S. 746, reargued. 375 U.S. 96 (1963) (reargument on question of whether Florida courts have jurisdiction to afford a remedy for violation of State law).

[47] Id., 375 U.S. at 99.

[48] Id. at 105.

[49] *San Diego Bldg. Trades Council* v. *Garmon*, supra note 29.

[50] *Algona Plywood & Veneer Co.* v. *Wisconsin Employment Relations Bd.*, supra note 37.

[51] *Retail Clerks Int'l Ass'n* v. *Schermerhorn*, supra note 46.

[52] Ibid.

[53] The question of picketing is a complex one, however, involving certain free speech aspects and a determination of the purpose for which the picketing was being conducted conceivably could bring the picketing within the ambit of protection afforded by sec. 7. See generally 3 CCH Lab. Rel., Lab. L. Rep., pars. 5110–85.

was to be construed as authorizing any closed shop, union shop, maintenance of membership, or other form of compulsory unionism agreement in any State where the execution of such agreement would be contrary to State law. Many States have enacted laws or adopted constitutional provisions to make all forms of compulsory unionism in those States illegal. It was never the intention of the National Labor Relations Act, as is disclosed by the legislative history of that act, to preempt the field in this regard so as to deprive the States of their powers to prevent compulsory unionism. Neither the so-called closed shop proviso in section 8(3) of the existing act nor the union shop and maintenance of membership proviso in section 8(a)(3) of the conference agreement could be said to authorize arrangements of this sort in States where such arrangements were contrary to the State policy. To make certain that there should be no question about this, section 13 was included in the House bill. The conference agreement, in section 14(b), contains a provision having the same effect.

As Senators know, President Truman vetoed the Taft-Hartley bill—H.R. 3020—and specifically objected to section 14(b) in paragraph 2(1) of his veto message. He also assigned other objections. Certainly it cannot be said that Members of Congress were not aware of the existence of 14(b). After the reading of the President's veto message, Mr. Johnson joined 330 of his colleagues in voting to override the President's veto. As Mr. Robison of Kentucky pointed out after the vote, Democrats voted 4 to 1 to override President Truman's veto. Senators know that the overriding of a Presidential veto is not considered lightly. The framers of the Constitution intended it to be that way, for they established a constitutional requirement of a two-thirds vote of both Houses to override a Presidential veto.

So we find that Mr. Johnson voted for this measure on three separate occasions, and these votes were as follows: First. To approve the Hartley bill on final passage; second, to approve the conference report on Taft-Hartley; and, third, to override a Presidential veto—the veto of a President of his own party. One could reasonably assume that a vote to override the veto of a President of his own party would be made only by force of the strongest convictions of conscience.

However, in the 1964 campaign a promise was openly made to the officers of the Nation's great labor unions—a promise to have section 14(b) of the National Labor Relations Act repealed. And, as any high school civics student knows, a campaign promise is made for the purpose of obtaining votes. In that election, however, so many promises were made that I am sure that the political scientists and statisticians have found it to be impossible to determine how many votes can be attributed to each individual promise. Perhaps one day a way will be found, and when that day arrives, campaign managers will consult a computer and it will tell him that promise "A" will yield x number of votes, and promise "B" will yield y number of votes, and so on. He will know which promises and just how many are necessary to obtain a victory. But in the meantime, the "shotgun" approach seems to be the technique most heavily relied upon—that is, promising everything to everyone—"all things to all men."

Mr. President, at this point I ask unanimous consent that a particularly pertinent editorial entitled "Who Said That," appearing in the Dallas Morning News for September 20, 1965, be inserted at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHO SAID THAT?

"I have never sought nor do I seek now the support of any labor bosses dictating to freemen anywhere, anytime," declared the Texas Congressman.

To make sure nobody missed his point, 10 days later he declaimed, "Although I have been a friend of the workingman, these big labor racketeers have voted to destroy me and other forthright Congressmen who had the courage to vote for the Taft-Hartley bill."

Furthermore, said the Congressman, referring to himself in the customary third-person form, he "voted for the Taft-Hartley anti-Communist law because he believes that no group of men—big labor or big business—should possess the power to wreck our national welfare and economy."

He would, he vowed, "never vote to repeal this law."

There were, he proclaimed 2 days later, only two great issues before Texas and the Nation: "One is whether we should bow our necks to labor dictatorship through the repeal or softening of the anti-Communist Taft-Hartley bill; the other is the question of foreign policy."

If he did not break the letter of his vow, he has certainly pulverized his intent never to bow, for 16 years later he announced, "I will propose to Congress changes in the Taft-Hartley Act, including section 14(b)."

The Congressman had in the meantime become President and the "change" in section 14(b) he proposed was its liquidation. Section 14(b) is that provision of the law that confirms the rights of the voters of each State to decide whether or not they want compulsory unionism.

Lyndon Baines Johnson has come a long way since those days when he asked and got the support of Texas voters for his defense of the Taft-Hartley Act. He has come so far that his Secretary of Labor W. Willard Wirtz can now get up before the convention of the International Ladies Garment Workers and inform them that part of his job is to press for the repeal of the right-to-work law.

Lyndon Johnson has come a long way since the days when he proclaimed his readiness to defend the freedom of choice of the individual. He has come so far that his Labor Secretary can attempt to justify a Federal seizure of the States' right to decide for themselves on right to work by the following curious statement:

"It is time to put an end to fruitless and acrimonious political controversy by adopting the rule of uniformity."

If this is to be the rationalization for future steps toward the Great Society, it bodes ill for America. The "acrimonious political controversy" that we are urged to put an end to is the muscle and fiber, the very soul, of democracy. "The rule of uniformity" that we are urged to adopt has been found only in totalitarian societies in which diversity is forbidden.

It may be said—in fact it has been said and repeatedly—that in 1948 Lyndon Johnson was trying to represent Texans and that today he is trying to represent all the people. This is true and it is also true that this may cause a change in the relative importance he attaches to the issues.

But does this change the basic question of right and wrong in these issues? Can a law be perfectly just for Texans and completely unjust for other Americans? Does the change justify promising eternally to support a law in order to win one election and promising to destroy the same law to win a later election? Does the higher elevation of the White House so change the viewpoint of Lyndon B. Johnson that his convictions there can be the exact reverse of his convictions in Congress?

These questions about the theory of political relativity have been troubling us, as they have been troubling most Texans. We would be obliged to our former Senator if he would explain it for us.

STATE LAWS

Mr. ALLOTT. Mr. President, I now wish to speak about State laws.

We are asked here to overturn laws enacted by the legislatures of 19 States. Congress should only take such action under the most serious of conditions, because if we assume that the legislatures represent a majority of the citizens, within State boundaries—and I believe we have no right to assume otherwise—we are, by congressional fiat, thwarting democracy and overruling the will of the majority. The only valid justification for such drastic action is that the constitutional rights of a minority are being ridden over roughshod by a majority, or that some overriding public policy consideration demands it. In the Civil Rights Act of 1964 and again in the Voting Rights Act of 1965, the Congress acted to implement machinery whereby the rights of the minority could be guaranteed. But, that was a case where constitutional rights were being systematically denied and the actions of Congress can be justified on that basis. In this instance we are being asked to give congressional sanction to the denial of individual rights. Such congressional action is justifiable only in cases of extreme emergency. No such emergency has been declared nor has any overriding public policy consideration been called to our attention. Is voluntary unionism in jeopardy by the existence of section 14(b)? Certainly not. According to a September 16, 1965, Labor Department news release, union membership in the United States increased by 346,000 in 1964 over total membership in 1962. The release went on to say:

In 1964, AFL–CIO affiliates reported 15,150,000 members, compared with 14,835,000 in 1962, and national unaffiliated unions reported 2,825,000 members, as against 2,794,000 in 1962. Sizable gains were reported by the autoworkers, steelworkers, teamsters, and a number of public employee unions, while losses were indicated among unions in the railroad industry.

If anything, the repeal of 14(b) is a threat to voluntary unionism, because it would in effect remove the word "voluntary" from that time-honored phrase. Repeal of 14(b) would amount to a substitution of the word "compulsory" for the word "voluntary."

But we are not only talking about the 19 right-to-work States. A 20th State, and possibly others, has an interest—my own State of Colorado. Colorado's Labor Peace Act will be affected by the repeal of section 14(b) of the National Labor Relations Act.

Some may point to Colorado and ask of me: "Why are you so concerned with this measure? Colorado is not a right-to-

work State." The question here is not whether or not Colorado enacts a right-to-work law. Rather the question is whether or not Colorado shall continue to have the authority to enact a right-to-work law if its citizens so desire. Let me say, also, that while I am here to represent the people of Colorado, this is a matter of national concern. It is a matter involving fundamental principles. That alone is sufficient for my concern. But also, while Colorado is not a right-to-work State, the bill before us will have a profound effect upon our State laws dealing with labor organizations. Under the provisions of the Colorado Labor Peace Act, a three-quarters vote in favor of a union shop is necessary to authorize the negotiation of a contract containing a union security clause. While Colorado did not outlaw compulsory unionism by enacting a right-to-work law, it did adopt legislation requiring more than a simple majority to determine whether union membership was going to be a condition for continued employment. Colorado attempted to strike a balance, proceeding on the theory that if three-quarters or more of those eligible to vote favored a union shop the majority was large enough to be truly definitive and not just an expression of momentary whim.

I am informed that the repeal of section 14(b) of Taft-Hartley would also supersede and therefore repeal by preemption the provisions of Colorado's Labor Peace Act (CRS 80–4–61(1)(d)) pertaining to union shop requirements. Labor Secretary Willard Wirtz responded affirmatively during the Senate hearings to an inquiry directly on this point. He said:

The doctrine of preemption would take effect there—

I might say by way of interpolation that he was referring to Colorado.

Section 8(a) and (b) would control and those State provisions would be superseded.

It should be noted that the basic provisions of the Colorado Labor Peace Act were enacted in 1943—4 years prior to the enactment of the Taft-Hartley Act. Since enactment of the Labor Peace Act, Colorado has elected 12 legislatures, controlled in varying degrees by both parties, none of which has acted to repeal that act. The Labor Peace Act has lived up to its name, and Colorado has been relatively free from the type of bitter labor strife that has plagued other parts of the country. Perhaps this is the reason the act has remained unchanged for 22 years, but it may also be due to the more enlightened labor leadership in Colorado than is provided in some other parts of the country. Therefore, my particular concern in this regard is that the proposed measure before us would, in effect, repeal a part of a State statute that has worked well for the people of Colorado.

Now, I wish to speak about majority rule.

MAJORITY RULE

Senator Wagner, author of the Wagner Act, in his statement prior to passage by the Senate of his bill, said:

At the same time, majority rule recognizes minority rights.

He later went on to say, in discussing a statement of Mr. Lloyd K. Garrison, who was then dean of the Wisconsin Law School:

He has made it clear that democracy in industry must be based upon the same principle as democracy in government. Majority rule, with all its imperfections, is the best protection of workers' rights, just as it is a surest guaranty of political liberty that mankind has yet discovered.

While by no stretch of the imagination could I agree with the proposition that labor unions are entitled to exercise the taxing powers of government, if the political philosophy of democracy is to be extended to labor unions, as it should be, then majority rule must include certain safeguards for the minority. Without these safeguards, majority rule can become majority tyranny. As Alexander Hamilton put it:

No man can be sure that he may not be tomorrow the victim of a spirit of injustice by which he may be the gainer today.

It is in this belief that we adopted the Bill of Rights. Speaking for the majority in *West Virginia State Board of Education* v. *Barnett* (319 U.S. 1187), Mr. Justice Jackson expressed it in these words:

The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy and place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to votes. They depend on the outcome of no election.

The right of citizens to act through their legislatures, it seems to me, would certainly qualify as one of those other fundamental rights. No great national purpose has been brought to my attention that would justify the abrogation of this fundamental right.

In this regard, I ask unanimous consent that an article written by James J. Kilpatrick entitled "The Tyranny of the 51 Percent" be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Evening Star, Jan. 11, 1966]

THE TYRANNY OF THE 51 PERCENT

(By James J. Kilpatrick)

That eminent defender of democracy, fair play, and individual freedom, George Meany of the AFL–CIO, sent a public-spirited letter a few days ago to all the country's editors.

It was a remarkably cordial letter in its way. Meany, or his agreeable ghost, fairly exuded sweetness and light. The gentleman was concerned with the repeal of section 14(b) of the Taft-Hartley Act, but he was not really concerned with it. He knew that most of the country's newspapers stand editorially opposed to repeal, but for the moment he did not propose to argue the inequities of State right-to-work laws. His purpose was "to enlist support for a basic principle of democratic government—the right to vote."

Warming to his point, this apostle of basic principles wanted to urge the Nation's editors to oppose a filibuster against the pending repeal bill. A filibuster on 14(b), said Meany earnestly, "is an offense against the orderly process of representative government." It is an offense against the democratic process. The Senate must have an opportunity to vote the bill up or down. "This has now become the basic issue," Meany avowed, transcending the merits of 14(b) itself. And very truly yours.

To which one might respond that it is always a pleasure to discuss the basic principles of democratic government with so distinguished a philosopher. And surely a "right to vote" is such a principle.

Yet perhaps it is in order to suggest to Meany that the right to vote is merely one of a number of basic American rights, among them the right to work. When the gentleman speaks of the right to vote, he is speaking in terms of the right of the 51 percent to have its way. He is equating "representative government" or "democratic government" with majority rule, and here he falls into serious error.

If there is one thing the American system of government emphatically is not, it is not a system founded upon the principle of majority rule. The Congress of the United States—and especially the Senate of the United States—is the living, breathing, filibustering embodiment of the ancient American principle that our society was never meant to be governed by the tyranny of the 51 percent.

From its first article to its last, the Constitution of the United States makes this truth abundantly clear. The legislative branch never was conceived on any democratic notions of one man, one vote. In the Senate, the rule is: Each State, two votes. The impeachment of public officials never was to depend upon a clerk with a tally stick, marking off a mathematical 51 percent. The overriding of a veto requires a two-thirds vote. And even a two-thirds concurrence is not enough to amend the supreme law of the land: The ratification of a constitutional amendment rests with not fewer than three-fourths of the States.

The framers of our basic law were not content even with these safeguards against unbridled majority rule. They wrote into the Constitution a dozen other provisions calculated to protect the single individual—the one man, unreconstructed, out of step—from the collective will of the mob. No abstract principles of the Senate's right to vote can be invoked to suppress a right to free speech, or free press, or free exercise of religion. In these fields, "the Congres shall make no law." And least they be misunderstood, the framers added still one more amendment, to say that the enumeration in the Constitution of certain rights "shall not be construed to deny or disparage others retained by the people."

These are among the "basic principles of democratic government" that Meany may not wish to defend with equal fervor. Surely it is a reasonable assumption that a man's elementary right to work is among those unenumerated rights that lie at the very foundation of a free society; and the right to work ought to carry with it a right to work without having to pay compulsory tribute to Meany.

In denouncing the filibuster as an offense against American principles, the president of the AFL–CIO loses sight of the old American principle known as the check and balance. The rules of the Senate that give DIRKSEN the power temporarily to check his colleagues are subject to the balancing power of his colleagues to invoke cloture and thus put a check on DIRKSEN. As the recent history of the Senate has dramatically shown, a filibuster can be broken; all that is required is that three-fifths of the Senators agree to break it.

In the course of time, the Senators will have their right to vote, pursuant to rules of representative government which they

themselves have prescribed. To be sure, the right to vote on a cloture petition is not precisely the right to vote that Meany has in mind; he wants to get to the merits, and a filibuster stands in his way. But the distinguished and venerable gentleman should be told that while a filibuster may take something away from the choices of pure democracy, the union shop leaves to the anti-union worker no choice at all. He joins the union or he quits his job. While we're testing basic principles, how about trying that one for size?

UNIFORMITY

Mr. ALLOTT. What arguments have been put forth in support of repeal of 14(b)?

There has been a strange, foreboding silence in the Senate for a week, now, by those who support the repeal of section 14(b). The gist of Labor Secretary Wirtz' argument is simply that there should be uniformity throughout the Nation. The argument is spurious because uniformity could just as easily be effected by the adoption of a national right-to-work law, and I note that an amendment to that effect has been introduced. I wish to say clearly and unequivocally that I would not favor such an amendment, either.

The President justified his request for the repeal of 14(b) "with the hopes of reducing conflicts in our national labor policy." He only hopes this may reduce conflicts. The same argument could be used to justify the elimination or the limitation of any of our freedoms. For example, freedom of the press might be limited with only the following justification: "with the hope of reducing conflicts relative to our Vietnam policy, all newspaper stories concerning Vietnam must be cleared by the administration before publication." I cannot find any persuasion in this kind of argument.

I cannot imagine any American subscribing to this kind of principle, but it is entirely analogous and parallel to the argument made by Secretary Wirtz.

COMPULSORY ARBITRATION

Secretary Wirtz points to the 1951 amendment on the Labor Railway Act authorizing union shops in the transportation industry as an example of the virtue of uniformity. Let us look at that industry for a moment. I received a statement from the AFL–CIO Executive Council bemoaning the fact that locomotive helpers—that is, firemen—have been under the yoke of compulsory arbitration for more than a year. Senators are familiar with the exigencies leading to this situation. From what I have been able to discover, neither labor nor management favor compulsory arbitration, and yet as the AFL–CIO points out, this is our first experience with peacetime compulsory arbitration. It is only coincidental that we should have our first peacetime experience with compulsory arbitration in a field which is exempted from the provisions of 14(b), where a union shop is specifically authorized by Federal law? Secretary Wirtz stated that repeal of 14(b) would promote industrial peace. Is this an example of the industrial peace that would be promoted? Would repeal of 14(b) ultimately lead to more and more compulsory arbitration? Certainly the growth of compulsory arbitration would in nowise enhance voluntary trade unionism. Freedom of contract is not preserved by having the Government setp in and determine the terms of settlement.

Compulsory arbitration tends to emphasize unduly the role of government, and under it employers and labor organizations tend to avoid solving their difficulties by free collective bargaining. The parties do not freely engage in the give and take of free collective bargaining, for the simple reason that the negotiators are reluctant to make concessions because the arbitrators may award to them that which they may have conceded. So, there is no real incentive to reach agreement voluntarily. The obvious result of such a practice of compulsory arbitration is that in the final analysis the Federal Government is put in the position of determining wage rates. Obviously, the next step is to set prices, since prices depend to a large extent upon wages, and purchasing power depends upon a combination of the two. In my opinion, free collective bargaining is just as important to free enterprise as the free, competitive market place. The destruction of one means the eventual destruction of the other.

We must ask ourselves whether the quest for uniformity coupled with the President's request for new authority which will "enable us effectively to deal with strikes which threaten irreparable damage to the national interest" serve the best interests of free collective bargaining; or, whether they only serve the interests of expanded Government control over labor and business—wages and prices—requiring compulsory arbitration, and in the final analysis, substituting the guidelines established by the President's economic advisers for agreement hammered out at the bargaining table by labor and management relative to wages and working conditions? The answer, it seems to me, is that such action would expand the role of Government in labor contract negotiations, and, as a necessary corollary, the expanding of Government's role will also expand the control of Government and reduce the part which both labor and management would play in such negotiations.

We have already had far too much executive interference in the fixing of prices and in the free, competitive marketplace in this country.

Secretary Wirtz employs a curious technique in rating the validity of arguments. He looks to who made the argument and not to the merits of the argument. In his statement to the Committee on Labor and Public Welfare, he said:

> The argument that union security agreements violate the freedom of individual employees has no substantial basis. This argument has been made almost entirely by representatives, not of employees, but of some employers.

Following this same twisted curious logic, how would he rate this statement by Samuel Gompers, founder of the American Federation of Labor:

> There may be here and there a worker who for certain reasons unexplainable to us does not join a union of labor. This is his right no matter how morally wrong he may be. It is his legal right and no one can or dare question his exercise of that legal right.

MONOPOLIES

The political and economic philosophy of this country does not look favorably upon monopolies because it has long been recognized that monopolies tend to restrain trade. A long series of anti-monopoly legislation has been enacted by Congress, the first notable measure being the Sherman Antitrust Act, which among other things, established the Antitrust Division of the U.S. Department of Justice to enforce its provisions against the establishment and maintenance of monopolies. Until the enactment of the Norris-LaGuardia Act, labor unions were subject to antitrust legislation, the same as business corporations. But, the Norris-LaGuardia, the Wagner, and the Taft-Hartley Acts all provided that labor organizations should be exempt from the antimonopoly policy adopted by this country.

There are other examples of exceptions to the rule against monopoly. The most obvious exceptions are in the fields of public utilities. These exceptions developed because it was deemed inadvisable and wasteful to have competition in certain public utilities, and it was found that the services of a public utility could be furnished to the public at a lower cost if competition were eliminated. Consequently, a substitute for the competitive marketplace had to be found in order to prevent the public from being exploited by a monopoly. This substitute took the form of stringent regulation by regulatory bodies established for this specific purpose. Exceptions to the anti-monopoly rule were justified primarily upon a basis of public convenience and other public policy purposes, and always under stringent regulations.

Prior to the enactment of the 1932 Norris-LaGuardia Act, the courts had held that antitrust legislation applied to unions. In the 1908 Danbury Hatters case (*Loewe* v. *Lawlor*, 208 U.S. 274) treble damages were sought against a union on the theory that a union blacklist and secondary boycott were illegal restraints of trade, and were activities proscribed by the Sherman Antitrust Act. Even though Section 6 of the 1914 Clayton Act attempted specifically to exempt unions from the application of antitrust laws, the Supreme Court held otherwise in the 1921 Duplex Printing case. As a result, the anti-injunction provision of the Norris-LaGuardia Act was the first effective effort of Congress to exempt labor unions from the antitrust laws. While labor unions were being granted immunity from the antitrust laws, stricter enforcement of antitrust laws against business was the order of the day.

After the Second World War, when the country could again direct its attention toward domestic affairs, the series of crippling strikes and the disclosure of the many abuses resulting from the laissez faire attitude of Government toward labor unions embodied in the Wagner Act caused the country to make an agonizing reappraisal of its policy toward unrestrained labor activity. It became obvious that the Wagner Act was

not achieving its stated purpose of promoting industrial peace. The increase in industrial strife in 1945 occasioned the loss of approximately 38 million man-days of labor to strikes. But, by 1946 this loss was trebled, when there were 116 million man-days lost, and the number of strikes reached the unprecedented figure of 4,985. In 1946, both Houses of Congress passed the Case bill, which seemed to reflect the growing public concern. The Case bill would have expressly brought secondary boycotts under the antitrust laws. It would have also restored to the Federal courts the power to issue injunctions in labor disputes, a power which was taken away from them by the Norris-LaGuardia Act. The bill failed to become law because of President Truman's veto, but it laid the groundwork for the later enactment of the Taft-Hartley Act over a Presidential veto. The Taft-Hartley Act was considerably milder than the Case bill, as it did not condemn labor monopolies as "bad" per se, but rather attempted to follow the course of regulation. The Taft-Hartley Act, then, was predicated upon the belief that a fairer and more equitable labor policy can best be achieved by equalizing existing laws in a manner which will encourage free, collective bargaining. At the same time, there was a recognition that Government decisions can not be substituted for free agreements by the parties if free collective bargaining is to continue to exist. However, the increased Government role in the negotiations of last year's steel contract leads one to wonder whether this policy has been discarded. In any event, the Taft-Hartley Act recognized that the interests of the general public in preserving peace are paramount.

I underscore that because I think the interest of the public at large is the paramount interest in any strike. This, in effect, injected a new element in labor-management relations, and that is the public interest. The hands off policy of the Norris-LaGuardia and the Wagner Acts was, at least, partially reversed. In other words, Congress recognized that monopolistic practices of labor unions could also result in a restraint of trade, because once again the adage "power corrupts and absolute power corrupts absolutely" had been reaffirmed. There is no place where that has been more evident than in the recent transit strike in New York. This pending proposal would eliminate the last vestige of restraint upon the establishment of labor monopolies in a broad and national sense. The history and development of regulatory control over public utility monopolies should serve as a warning to all those who mistakenly believe that the interests of organized labor will in the long run be best served through establishment of absolute monopoly powers in the unions.

FREE RIDERS

What is a "free rider?" I suppose he can be characterized as one who receives benefits for which he has not paid, or to which he has not contributed, or for which he has not given up anything. Let us examine the status of the nonmember in a shop which has recognized a union as the employee's bargaining agent under the provisions of the National Labor Relations Act. By law, the union is the exclusive bargaining agent for all the employees, both union members and nonunion members. Section 9(a) of the Wagner Act states specifically:

> Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a union appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

In other words, the National Labor Relations Act has deprived the nonmember of his voice in determining and in coming to an agreement with his employer on such important matters as his rate of remuneration, the hours he shall work, and all other conditions of his employment. These rights have been taken from him and granted to the labor union without his consent. He has forfeited his fundamental right of freedom of contract. He has given up his voice in the selection of his bargaining agent, and he has also given up his voice in directing the internal affairs of the union—which has by law become his bargaining agent. He is at the mercy of that bargaining agent. He has done this to exercise his freedom of choice, to exercise a right granted to him under section 7 of the National Labor Relations Act—that is, to join or not to join a labor organization. The rights he has given up may be likened to an act of forbearance. In contract law, forbearance in the exercising of a right has been held to be legal consideration and is sufficient to make an otherwise valid contract binding. In other words, in contract law, forbearance is held to be something of value; its exact value would, of course, depend upon the precise nature of the right not being exercised. Therefore, under these circumstances the nonunion member has contributed something of value to the union cause. He has contributed his right to negotiate the basic terms of his employment.

What are the benefits that flow to the union due to this legislative grant of exclusive bargaining authority and enforced forbearance of the individual to act on his own behalf relative to wages, hours, and conditions of employment? Obviously, it has increased the bargaining strength and improved the bargaining position of the union in bargaining for its members. The labor unions recognized this benefit, and it was upon their insistence that the National Labor Relations Act included the provision granting to the unions the power to act as the exclusive bargaining agent for all employees within the bargaining unit—both union members and nonunion members. But this is not enough, according to the proponents of this bill. Those who have given up their contractual rights by force of law must also pay for the privilege of having their rights taken away from them. The proponents of this measure do not demand that nonmembers become members, they only demand that they contribute to the support of the union as though they were members. Recognizing the probable unconstitutionality of forcing someone to join an organization against his will, the proponents have modified their request for authority, and now only ask that he act like he is associating—that is, to pay dues and initation fees—but he does not have to actually go to any union meetings. The proponents know that if he is going to pay for a union he is going to attend the meetings—he would be a fool not to do so. People do not customarily pay for things they do not intend to enjoy—it would be like going into a store and buying a watch or some other item and then leaving it for the store to sell again. Obviously, the store owner would like that very much, but it requires a curious sense of justice to justify such a requirement. While it has been argued that public policy considerations have justified the abrogation of the individual's right to negotiate the terms of his own employment contract, I know of no public policy consideration which would require those deprived of their rights to, in addition, pay tribute to those to whom their rights have been transferred. This kind of reasoning would require an independent voter to contribute to both political parties. The independent voter forfeits his opportunity to participate in the selection of the candidates of one of the major parties. Personally, I think this is a great sacrifice to maintain one's independence; but, I believe every citizen should have the right to make that decision, and I am sure that such decisions are made only upon compelling reasons of conscience.

Another facet of compulsory unionism and the free-rider argument which have received attention is the effect of the union shop upon summer employment of students.

In May of last year, the President launched a program which he called the youth opportunities campaign. The objective of this program was to increase summer job opportunities for high school and college students. Two letters, written by Mr. Gerald H. Phipps, president of a general contracting company in Denver, Colo., graphically display how compulsory unionism may work to defeat national programs, and also work a hardship upon our youth. I will read from those letters because I believe they present the matter eloquently. The first letter is dated June 1, 1965, and is addressed to the Secretary of Commerce, Mr. John T. Connor:

> DEAR MR. SECRETARY: This morning's mail brought your open letter to employers dated May 23 and urging the employment of boys and girls 16 through 21 years of age during the summer months. I believe a few comments are in order.
>
> In the nearly 20 years this firm and its predecessor have operated in the Denver area, we have attempted to furnish summer employment for deserving young men. As building contractors, we have not had nor do we expect to have openings for young ladies.
>
> In view of the President's recent message to Congress on the subject of labor legislation, it is worthy of comment that one of our problems in furnishing employment lies in the fact that, as members of the Associated Building Contractors of Colorado, we are parties to contracts with building trade

unions. Since Colorado does not have a right-to-work law, these contracts all require union shop operation. Even though the job opportunities we provide for students are temporary in nature, these men are required by our contracts to become members of the appropriate union within 30 days of their employment, paying full initiation fee and full monthly dues. As you can imagine, these take a fairly substantial bite out of their paychecks. Further, since all skilled trades require any man to pass through an apprenticeship training program, these trades are closed to seasonal employment. Finally, when total volume of work in the area is below par, the common laborer's union can and often does refuse membership to seasonal employees.

I omit some portions which are not pertinent.

The letter continues:

I assure you that we will do all we can to forward the youth opportunity campaign. However, to a major degree our hands are tied.

Sincerely yours,

GERALD H. PHIPPS,
President.

The second letter is dated July 20, 1965, and is addressed to the senior Senator from Colorado:

DEAR GORDON: In accordance with your letter of July 14, following is information regarding initiation fee and dues payable to the local union of the laborers: initiation fee is $75. A payment of $1.50 is required for a Denver Building & Construction Trades Council card. The dues to the laborers' union are $4.50 per month. At the time of going to work, a payment of $40 is required, representing $34 toward the initiation fee, and building trades card and dues for 1 month. Within the next 2 weeks, the remaining $41 of initiation fee must be paid.

Dues must be kept current, an arrearage of 2 months calling for payment of $50 of the initiation fee plus back dues. A man wishing to remain in the union following the end of summer employment and looking toward employment in the following year must continue his monthly dues payments. Otherwise the full initiation fee must again be paid. I hope this furnishes the information you want.

Sincerely,

GERALD H. PHIPPS,
President.

Reactionaries have been characterized as those who inhibit progress in order to preserve an established order. That, of course, is the purpose of union security clauses: To preserve the established order; to protect the security of the bargaining representative. In that sense, the proponents of this measure are reactionary. Secretary Wirtz, in support of this reactionary notion, said:

There is no right of a minority to endanger the freedom of a majority of the employees to protect the security of the bargaining representative.

What he is saying, in effect, is that the union should not be required to sell its services, that it need not continue to prove its worth to the employee by performance. In other words, the union is entitled to a free ride at the expense of the employee who does not wish to join the union.

It boils down to this question: Shall we make it a national policy that two private parties can enter into an agreement affecting the rights of a third party who has not participated in making that agreement? I think that it is important to recognize that the right that is being bargained away is the right of the individual to freedom of association, a right which is protected by the first amendment to the Constitution.

TIME IS AGAINST THEM

The real motive behind this present drive to repeal 14(b) is that as time has passed, the people in more and more States have come to recognize the injustice of compulsory unionism and have taken steps to prevent it. Of the 19 States that now have right-to-work statutes or constitutional amendments, 9 had enacted such provisions prior to the final vote on Taft-Hartley—June 23, 1947. During the remainder of 1947, two more States were added to their ranks; namely, South Dakota and Texas, the latter being the home of our President. In 1948, North Dakota became a right-to-work State. Things were fairly quiet on the right-to-work front until 1952 when Nevada became a right-to-work State. By 1963 six more States had either enacted right-to-work statutes or had adopted constitutional amendments forbidding compulsory unionism: Alabama in 1953, Mississippi and South Carolina in 1954, Utah in 1955, Kansas in 1958, and Wyoming in 1963. Proponents of the bill can see the trend. I am sure that each year they ask themselves: I wonder which State will be next? Time is against them and they know it. That is the real reason they wish to repeal all the right-to-work laws in one blanket measure through the Congress. Because such States as Nevada and Arizona have approved right to work on three separate occasions, the proponents of compulsory unionism have moved to the Congress in an effort to thwart the expressed will of the people in those States.

Secretary Wirtz indicated in his statement before the committee that the proponents of the repeal of 14(b) are unions "which have stood most strongly for individual freedoms." The only explanation that I can find for those who have purportedly stood for individual freedoms now pressing for the extinguishment of individual freedoms is best expressed by the old adage:

It all depends upon whose ox is gored.

Or, I might paraphrase it this way:

It all depends on whose free ride is in jeopardy.

INDUSTRIAL PIRACY

It has been charged that right-to-work States have been successfully pirating industry away from my State. Mr. President, I must say that in talking with my good friends, the members of unions who came to my office in Colorado, this was the point they expressed most often and pushed most vociferously. Certainly, such a matter as that of States successfully pirating industry away from my State would give any Member of Congress reason to pause, if such a charge were supportable. Colorado is in a rather unique position, because it is almost completely surrounded by right-to-work States. Of the seven States bordering Colorado, five have right-to-work laws; namely, Arizona, Utah, Wyoming, Nebraska, and Kansas. On several occasions, I have requested from those making this charge that data be furnished to me in support of this contention, but I have yet to receive any such data. The only data I have received are tables showing that economic activity in nearly every area has increased more rapidly in right-to-work States generally than in non-right-to-work States. I have tables indicating that average weekly earnings of production workers in right-to-work States have increased more rapidly in the last 10 years, since 1955, than has the average earnings in non-right-to-work States. Right-to-work States experienced an increase in weekly earnings for production workers of 46.8 percent, while non-right-to-work States had only a 42.8 percent increase during that period.

Mr. President, I ask unanimous consent to have certain tables from the Department of Labor, Bureau of Labor Statistics, showing the increase in wage rates, printed in the RECORD.

The PRESIDING OFFICER (Mr. MORSE in the chair). Is there objection?

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

Average weekly earnings of production workers—Rate of increase, 1955–65

	January 1955	January 1965	Percent increase
Right-to-work States	$65.61	$96.34	46.8
Non-right-to work States	74.80	106.83	[1] 42.8
National average	71.16	102.68	44.3

THE INDIVIDUAL RIGHT-TO-WORK STATES

Alabama	$57.42	$91.91	60.1
Arizona [2]	82.19	111.65	35.8
Arkansas	51.73	73.67	42.4
Florida	57.95	90.74	56.6
Georgia	51.61	80.38	55.7
Indiana [2]	80.35	118.98	48.1
Iowa	74.41	111.80	50.2
Kansas [2]	81.61	112.95	38.4
Mississippi	47.88	72.98	52.4
Nebraska	68.69	105.04	52.9
Nevada [2]	87.05	121.52	39.6
North Carolina	49.78	73.21	47.1
North Dakota	65.68	95.74	45.8
South Carolina	52.10	77.38	48.5
South Dakota	73.37	106.14	44.7
Tennessee	59.20	85.49	44.4
Texas	72.80	101.68	39.7
Utah [2]	75.81	112.87	48.9
Virginia	57.02	86.31	51.4

THE INDIVIDUAL NON-RIGHT-TO-WORK STATES

California	$83.47	$121.71	45.8
Colorado	75.17	113.27	50.7
Connecticut	75.67	109.98	45.3
Delaware	73.36	115.23	57.1
Idaho	80.10	102.91	28.5
Illinois	79.10	115.98	48.1
Kentucky	67.30	98.98	47.1
Louisiana	66.75	106.43	59.4
Maine	59.26	83.84	41.5
Maryland	71.77	106.45	48.3
Massachusetts	66.80	96.16	44.0
Michigan	93.76	144.87	54.5
Minnesota	76.44	111.41	45.7
Missouri	69.36	104.59	50.8
Montana	83.05	110.55	33.1
New Hampshire	59.60	82.62	38.6
New Jersey	76.46	111.25	45.5
New Mexico	85.28	90.57	6.2
New York	73.52	104.67	42.4
Ohio	83.40	124.03	48.7
Oklahoma	72.04	100.62	39.7
Oregon	87.95	114.07	29.7
Pennsylvania	72.20	103.74	43.7
Rhode Island	61.29	85.81	40.0
Vermont	59.94	89.25	48.9
Washington	85.09	116.82	37.3
West Virginia	71.80	108.54	51.2
Wisconsin	77.29	113.94	47.4
Wyoming	81.93	109.74	33.9

[1] 13 of 29 non-right-to-work States have increases below the national average.

[2] 6 of the 15 States with the highest average weekly earnings for productionworkers are right-to-work States.

Source of data: Department of Labor, Bureau of Labor Statistics "Employment and Earnings," 1955 and March 1965 volumes.

Rate of increase of nonagricultural employees (1953–63)

	Percent
Right-to-work States	23.3
Non-right-to-work States	9.0
National average	12.6

(The top three States in the Nation in rate of new jobs created by industry are right-to-work States: (1) Nevada, (2) Arizona, (3) Florida.)

Source of data: Department of Labor, Bureau of Labor Statistics.

Rate of increase of new manufacturing jobs (1953–63)

	Percent
Right-to-work States	12.8
Non-right-to-work States	−7.6
National average	−3.3

Source of data: Department of Labor, Bureau of Labor Statistics.

Rate of increase of production workers (1953–63)

	Percent
Right-to-work States	3.9
Non-right-to-work States	−14.1
National average	−10.2

Source of data: Department of Commerce, Bureau of the Census.

Rate of increase of capital expenditures (1953–63)

	Percent
Right-to-work States	37.1
Non-right-to-work States	27.2
National average	29.8

Source of data: Department of Commerce, Bureau of the Census.

Rate of increase of per capita personal income (1953–63)

	Percent
Right-to-work States	43.7
Non-right-to-work States	35.4
National average	37.0

Source of data: Department of Commerce, Office of Business Economics.

Rate of increase of personal income (1953–63)

	Percent
Right-to-work States	70.3
Non-right-to-work States	60.2
National average	62.7

Source of data: Department of Commerce, Office of Business Economics.

Rate of increase of hourly earnings by manufacturing workers (1953–63)

	Percent
Right-to-work States	46.7
Non-right-to-work States	41.5
National average	43.7

Source of data: Department of Labor, Bureau of Labor Statistics.

Rate of increase of value added by manufacturing (1953–62)

	Percent
Right-to-work States	73.3
Non-right-to-work States	41.5
National average	47.5

Source of data: Department of Commerce, Bureau of the Census.

Rate of increase of population (1950–64)

	Percent
Right-to-work States	27.4
Non-right-to-work States	26.2
National average	26.6

Bureau of the Census.

Source of data: Department of Commerce,

Rate of increase of average weekly earnings of production workers (1955–65)

	Percent
Right-to-work States [1]	46.8
Non-right-to-work States	42.8
National average	44.3

[1] 6 of the 15 States with the highest average weekly earnings for production workers are right-to-work States.

Source of data: Department of Labor, Bureau of Labor Statistics—"Employment and Earnings," 1955 and March 1965 volumes.

Rate of increase of bank deposits (1953–64)

	Percent
Right-to-work States	69.4
Non-right-to-work States	63.5
National average	64.6

Source of data: Department of the Treasury.

Rate of increase of motor vehicle registrations (1953–63)

	Percent
Right-to-work States	53.0
Non-right-to-work States	44.3
National average	47.0

Source of data: Department of Commerce, Bureau of Public Roads.

Rate of increase of annual retail trade payroll (1954–58)

	Percent
Right-to-work States	23.5
Non-right-to-work States	17.5
National average	18.9

Source of data: Department of Commerce, Bureau of the Census.

Rate of increase of retail trade sales (1954–58)

	Percent
Right-to-work States	20.3
Non-right-to-work States	16.7
National average	17.6

Source of data: Department of Commerce, Bureau of the Census.

Rate of increase of retail trade establishments (1954–58)

	Total percent	With payroll percent
Right-to-work States	6.9	9.9
Non-right-to-work States	2.6	3.4
National average	3.7	5.1

Source of data: Department of Commerce, Bureau of the Census.

Rate of incerase of value of life insurance in force (1953–63)

	Percent
Right-to-work States	167.0
Non-right-to-work States	132.0
National average	140.0

Source of data: Institute of Life Insurance, Life Insurance Fact Book.

Rate of increase of number of life insurance policies in force (1953–63)

	Percent
Right-to-work States	39.2
Non-right-to-work States	26.8
National average	30.5

Source of data: Institute of Life Insurance, Life Insurance Fact Book.

TIME LOST THROUGH STRIKES

In States without right-to-work laws, nearly twice as much time is lost through work stoppage due to strike action as in the right-to-work States. The following figures are from the Bureau of Labor Statistics:

Man days idle during work stoppages—1963 (As percent of working time)

	Percent
Right-to-work States	0.09
Non-right-to-work States	0.14

Mr. ALLOTT. Mr. President, when these facts are pointed out, the proponents of the repeal of 14(b) respond with this statement: "Yes, but most of the right-to-work States are Southern States where wages were lower to begin with and working conditions are substandard." It seems inconceivable to me that anyone truly interested in the welfare of the workingman would complain about a more rapid increase in wages in areas where wages were allegedly lower to begin with. Such an attitude is tantamount to advocating that the blessings of our modern economy should only be enjoyed by those States which are already highly developed industrially. I would not ascribe to them such selfish and reactionary motives.

CLOSED SHOP

During the debate on the Wagner Act, there was a great deal of discussion concerning the closed shop provisions. The opponents argued that the bill encouraged the closed shop, which was later outlawed by the Taft-Hartley Act and held to be contrary to public policy because it denied to the employee an opportunity to obtain employment without first becoming a member of a labor organization. Senator Wagner, in discussing the closed shop provision, made the following statement:

> While outlawing the organization that is interfered with by the employer, this bill does not establish the closed shop, or even encourage it.

But, compulsory unionism was not a matter of widespread concern since only a relatively small minority of employees were affected by contracts containing any compulsory features. However, during the war years, compulsory unionism developed rapidly to where over 75 percent of the labor contracts contained some form of compulsion by the time of the enactment of the Taft-Hartley Act. The abuses of compulsory membership became so numerous, and public feeling against such arrangements became so strong, that the Congress could no longer ignore the problem. The Senate committee pointed out that in 12 States such agreements had been made either illegal by legislative act or constitutional amendment, and in 14 other States proposals for abolishing such contracts were then pending. Thus, while Congress, in the Taft-Hartley Act, clearly outlawed the closed shop because "it is clear that the closed shop, which requires pre-existing union membership as a condition of obtaining employment, creates too great a barrier to free employment to be longer tolerated"; it left it up to the States to control the other forms of compulsory unionism. The argument that Congress was inconsistent in granting to the unions the right to have union shop agreements on the one hand, and on the other hand afforded the

States the power to take that right away, has no more validity than the argument that Congress was inconsistent in granting to the individual the right not to join a union, as set forth in section 7, and then allows the unions to enter into a private compulsory union agreement with the employer taking that right away. In the first instance the so-called right that is taken away is taken away through the democratic processes of government, whereas in the second instance the individual's right is taken away through the private negotiations of two other parties.

Further, the legislative history of both the Wagner Act and the Taft-Hartley Act clearly indicates that it was never the intent of Congress to preempt the field. In his presentation to the Senate, Senator Wagner, in commenting on the effects of the Wagner Act upon compulsory unionism, said:

> It is legal in many States, and there is no reason why Congress should make it illegal in those places where public policy now sustains it.

In other words, the Wagner Act merely maintained the status quo with regard to compulsory unionism. This is supported by a statement in the conference report on Taft-Hartley:

> It was never the intention of the National Labor Relations Act, as is disclosed by the legislative history of that act, to preempt the field in this regard so as to deprive the States of their powers to prevent compulsory unionism.

From this, it is at once apparent that the argument that Congress created a legal anomaly by granting to the unions the power to enforce compulsory unionism in one section of the act, and then took it away in another section of the act is totally fallacious. Congress never intended to disturb State authority in this area, except that in the Taft-Hartley Act the closed shop was outlawed as a matter of national public policy. The status of the union shop was left unchanged. As Senator Taft said in reference to the inclusion of section 14(b) in the conference report:

> The Senate committee report stated on its face that State laws would still remain in effect. All we have done is to write in expressly what our committee report said.

FREEDOM OF CONTRACT

The freedom of contract that was being denied at that time, and which the Wagner Act was attempting to restore, was that freedom of contract which was being systematically denied to employees by their employers' requirement to sign an agreement not to join a labor organization. Such contracts were known as yellow dog contracts. Such a contract would effectively deny an individual of his right to freely associate with others in organizing and supporting a labor union. Congress was then reacting to an abuse of power leading to the denial of individual rights. In this case the denial of the individual's right to associate. At that time it was not deemed necessary to grant legislative protection of the right not to associate. As I have pointed out, only a relatively small percentage of the Nation's work force was affected by compulsory union contract provision and, moreover, the Wagner Act left to State determination the matter of the legality of the closed shop and other forms of compulsory unionism. Inasmuch as the States were free to protect the right not to associate, there was no necessity for Congress to act in that area. Therefore, it cannot be said that the enactment of section 14(b) had any substantial effect on organized labor, if indeed it had any effect at all, because it did not change existing law; it merely enunciated it.

EQUALITY OF BARGAINING POWER

While all of these arguments are persuasive, the real issue centers around the determination of what our objective has been and should be in labor legislation. Perhaps a quote from section 1 of the Wagner Act would be helpful in this regard:

> The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other form of ownership association, substantially burdens and affects the flow of commerce, and tends to aggravate the recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

In the analysis of the bill (S. 1958) introduced by Senator Wagner, the Senate report 573; 74th Congress, 1st session states the purposes of the Wagner Act more succintly in these words:

> This section states the dual objectives of Congress to promote industrial peace and equality of bargaining power by encouraging the practice of collective bargaining and protecting the rights upon which it is based.

From these statements it would seem that it was the purpose of Congress to enact legislation which would foster "the equality of position between the parties in which liberty of contract begins."

The history of the labor movement is one of conflict, and at times bloody conflict. Progress toward responsible labor-management relations has not come easy. The labor movement has come a long way from the days when attempts at unionization were considered criminal conspiracies by the courts. But, as often occurs in such instances, the pendulum swings from one extreme to the other. Psychologists call this overcompensation. The period between the enactment of the Wagner Act and the enactment of the Taft-Hartley Act can be characterized as a period of overcompensation. The inequality of bargaining power had shifted from the side of management to the side of labor. But the advent of Taft-Hartley marked the beginning of the backswing of the pendulum—a period of adjustment toward a restoration of equality of bargaining power; and I say that this should be the just aim of the Government and the position of the Government in these matters.

While it has been the consistent policy of Congress in enacting labor legislation to elevate labor organizations to the position of equality with management, necessary for the protection of its lawful rights and the furtherance of its legitimate interests, it was never the intention of Congress to elevate labor to a position of dominance over management. To do so would have been to destroy the balance Congress was attempting to achieve, and would have amounted to a betrayal of free collective bargaining, since free collective bargaining cannot proceed under conditions where one party is dominant over the other.

It is evident, by the recent experience in the New York transit strike, that labor unions are not lacking in power to enforce their demands. But further, there is a tacit admission of organized labor's favorable power position in the President's state of the Union message wherein he stated:

> I also intend to ask the Congress to consider measures which, without improperly invading State and local authority, will enable us effectively to deal with strikes which threaten irreparable damage to the national interest.

Since the President will ask Congress to consider measures which will have the effect of controlling, and thereby diminishing the power of unions in the national interest, the labor unions evidently must not be lacking in bargaining power.

If there had been a showing that section 14(b) represented a clear and present danger to the continued existence of labor organizations and its repeal would salvage their strength, the public policy considerations might then lean toward that expediency; and, I might say that if that were the case, I would support it. However, compulsory unionism can only be considered an expediency.

But the continued existence of labor unions is not threatened, and it is certainly not threatened by section 14(b), and the figures I have previously inserted in the RECORD show this. If anything, the level of their influence is at an all-time high. The fact that the measure we are considering here today has already passed the House of Representatives is mute evidence of that fact.

LOSS OF MEMBERS

Statistics have been adduced to show that there has been a loss of union membership in right-to-work States. However, on closer examination it becomes apparent that other forces are primarily accountable. For example, three highly industrialized and unionized non-right-to-work States had a 16.4 percent decrease in AFL–CIO membership during the period 1953 to 1962. These States—California, Ohio, and Missouri—had a total union membership of 3,350,000 in 1958. But by 1962 that membership had dropped to 2,800,000—a net loss of 550,000 members.

Before making a comparison, let me emphasize that these three States of California, Ohio, and Missouri are non-right-to-work States.

Now, let us compare this loss of membership with the net national loss of 506,028 members—excluding Pennsylvania and Hawaii for which figures were not available. The loss for those three States exceeded the net national loss by nearly 44,000 during the same period. Of course, the national net loss figure takes into account both gains and losses.

But this is not the whole story. During this same period there was an increase in nonagricultural employment in those same States of 867,100—from 8,802,600 in 1958 to 9,669,700 in 1962. So there was a considerable potential for increased union membership in the States of California, Ohio, and Missouri, but instead of showing an increase, these States recorded a substantial loss during this period. Obviously, there are other forces at work creating this situation, and to misplace the blame on right-to-work laws is not only erroneous and unfair, but it does a disservice to the labor movement by clouding the issue.

The unions need to do some soul-searching, their policies may need a complete reevaluation, and their objectives may need to be reappraised and realined in keeping with the changed conditions inherent in our modern, space-age society. To blame right-to-work laws for their own failure is indulging in scapegoatism and serves no useful purpose.

CONCLUSION

Mr. President, in approaching the matter of the repeal of section 14(b) of the Taft-Hartley Act, I felt it was my duty to the people of Colorado to put aside any feelings I had, either pro or con, before launching the exhaustive and intensive review of the legislative histories of labor legislation of major importance. This I have done. Then, while maintaining an open mind, I attempted to determine the true legislative intent behind our major labor legislation. After having done this, I evaluated existing labor legislation in terms of its present application to the current labor-management picture, keeping in mind the legislative intent and the objectives Congress sought to achieve.

Obviously, the first and foremost objective was to provide for the public safety, since this is the primary responsibility of government. The second objective was to protect the public's welfare. The third objective was to protect the constitutional rights of the individual. And the fourth objective was to establish machinery whereby disputes which threatened any of the three objectives just enumerated could be resolved peacefully and lawfully. These four major objectives have largely been achieved by the labor legislation enacted by Congress. From my review of the legislative histories of labor legislation of major importance, my evaluation of its application to the current labor-management situation, and after carefully weighing the various arguments, both pro and con, I have become convinced that the retention of section 14(b) of the Taft-Hartley Act is in keeping with the objectives Congress sought to achieve.

The repeal of section 14(b) of the Taft-Hartley Act is at cross-purposes with those objectives because it would tend to endanger the public's welfare by encouraging monopolistic practices, and it would deny the individual his constitutional right not to associate. Consequently, Senate passage of H.R. 77, which would repeal section 14(b) of the Taft-Hartley Act, is not in the national interest, and, in my opinion, it is not in the long-range interests of the labor movement. Therefore, because of this and the many public policy considerations I have discussed here today, and because I consider myself to be a friend of the individual workingman, I must oppose H.R. 77.

RECESS UNTIL 10 A.M. MONDAY

Mr. ALLOTT. Mr. President, I ask unanimous consent that the Senate may stand in recess under the order previously entered.

The PRESIDING OFFICER (Mr. MORSE in the chair). Is there objection?

There being no objection (at 2 o'clock and 34 minutes p.m.), the Senate took a recess until Monday, January 31, 1966, at 10 o'clock a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 29 (legislative day of January 26), 1966:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Robert C. Seamans, Jr., of Massachusetts, to be Deputy Administrator of the National Aeronautics and Space Administration, to which office he was appointed during the last recess of the Senate.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Harold Howe II, of North Carolina, to be Commissioner of Education, to which office he was appointed during the last recess of the Senate.

OFFICE OF ECONOMIC OPPORTUNITY

Franklyn A. Johnson, of California, to be an Assistant Director of the Office of Economic Opportunity.

NATIONAL LIBRARY OF MEDICINE, PUBLIC HEALTH SERVICE

Dr. William B. Bean, of Iowa, to be a member of the Board of Regents, National Library of Medicine, Public Health Service, for a term expiring August 3, 1969, to which office he was appointed during the last recess of the Senate.

Dr. Stewart G. Wolf, Jr., of Oklahoma, to be a member of the Board of Regents, National Library of Medicine, Public Health Service, for a term expiring August 3, 1969, to which office he was appointed during the last recess of the Senate.

REPRESENTATIVES WITH RESIDENCES IN WASHINGTON

OFFICE ADDRESS: House Office Building, Washington, D.C.

[Streets northwest unless otherwise stated]

Speaker: John W. McCormack

Abbitt, Watkins M., *Va*
Abernethy, Thomas G., *Miss.* 6278 29th St.
Adair, E. Ross, *Ind* 4000 Mass. Ave.
Adams, Brock, *Wash*
Addabbo, Joseph P., *N.Y*
Albert, Carl, *Okla* 4614 Reno Rd.
Anderson, John B., *Ill*
Anderson, William R., *Tenn.* 3006 P St.
Andrews, George W., *Ala* 3108 Cathedral Ave.
Andrews, Glenn, *Ala*
Andrews, Mark, *N. Dak*
Annunzio, Frank, *Ill*
Arends, Leslie C., *Ill* 4815 Dexter St.
Ashbrook, John M., *Ohio*
Ashley, Thomas L., *Ohio*
Ashmore, Robert T., *S.C*
Aspinall, Wayne N., *Colo* The Towers Apts., 4201 Cathedral Ave.
Ayres, William H., *Ohio*
Baldwin, John F., *Calif*
Bandstra, Bert, *Iowa*
Baring, Walter S., *Nev*
Barrett, William A., *Pa*
Bates, William H., *Mass*
Battin, James F., *Mont*
Beckworth, Lindley, *Tex*
Belcher, Page, *Okla*
Bell, Alphonzo, *Calif*
Bennett, Charles E., *Fla* 3421 Rusticway Lane, Falls Church, Va.
Berry, E. Y., *S. Dak* 118 Schotts Court NE.
Betts, Jackson E., *Ohio*
Bingham, Jonathan B., *N.Y.*
Blatnik, John A., *Minn*
Boggs, Hale, *La*
Boland, Edward P., *Mass*
Bolling, Richard, *Mo* 307 Warrenton Dr., Silver Spring, Md.
Bolton, Frances P. (Mrs.), *Ohio.* 2301 Wyo. Ave.
Bow, Frank T., *Ohio* 4301 Mass. Ave.
Brademas, John, *Ind*
Bray, William G., *Ind*
Brock, W. E. (Bill), *Tenn*
Brooks, Jack, *Tex*
Broomfield, William S., *Mich.*
Brown, Clarence J., Jr., *Ohio.*
Brown, George E., Jr., *Calif*
Broyhill, James T., *N.C*
Broyhill, Joel T., *Va*
Buchanan, John, *Ala*
Burke, James A., *Mass*
Burleson, Omar, *Tex* 2601 Woodley Pl.
Burton, Laurence J., *Utah*
Burton, Phillip, *Calif*
Byrne, James A., *Pa*
Byrnes, John W., *Wis* 1215 25th St. S., Arlington, Va.
Cabell, Earle, *Tex*
Cahill, William T., *N.J*
Callan, Clair, *Nebr* 1200 S. Courthouse Rd., Arlington, Va.
Callaway, Howard H., *Ga*
Cameron, Ronald Brooks, *Calif.*
Carey, Hugh L., *N.Y*
Carter, Tim Lee, *Ky*
Casey, Bob, *Tex*
Cederberg, Elford A., *Mich*
Celler, Emanuel, *N.Y* The Mayflower
Chamberlain, Charles E., *Mich.*
Chelf, Frank, *Ky*
Clancy, Donald D., *Ohio*
Clark, Frank M., *Pa* 220 C St. SE.
Clausen, Don H., *Calif*
Clawson, Del, *Calif*
Cleveland, James C., *N.H*
Clevenger, Raymond F., *Mich.*
Cohelan, Jeffery, *Calif* 1028 New House Office Building
Collier, Harold R., *Ill*
Colmer, William M., *Miss*
Conable, Barber B., Jr., *N.Y.*
Conte, Silvio O., *Mass* 5619 Lamar Rd., Washington 16, D.C.
Conyers, John, Jr., *Mich*
Cooley, Harold D., *N.C* 2601 Woodley Pl.
Corbett, Robert J., *Pa*
Corman, James C., *Calif*
Craley, N. Neiman, Jr., *Pa*
Cramer, William C., *Fla* 6215 Beachway Dr., Falls Church, Va.
Culver, John C., *Iowa*
Cunningham, Glenn, *Nebr* 4920 Yorktown Blvd., Arlington, Va.
Curtin, Willard S., *Pa*
Curtis, Thomas B., *Mo*
Daddario, Emilio Q., *Conn*
Dague, Paul B., *Pa*
Daniels, Dominick V., *N.J*
Davis, Glenn R., *Wis*
Davis, John W., *Ga*
Dawson, William L., *Ill*
de la Garza, Eligio, *Tex*
Delaney, James J., *N.Y*
Dent, John H., *Pa*
Denton, Winfield K., *Ind*
Derwinski, Edward J., *Ill*
Devine, Samuel L., *Ohio*
Dickinson, William L., *Ala*
Diggs, Charles C., Jr., *Mich*
Dingell, John D., *Mich*
Dole, Robert, *Kans* 6136 Beachway Dr., Falls Church, Va.
Donohue, Harold D., *Mass*
Dorn, W. J. Bryan, *S.C* 2030 Laburnum St., McLean, Va.
Dow, John G., *N.Y*
Dowdy, John, *Tex*
Downing, Thomas N., *Va*
Dulski, Thaddeus J., *N.Y* 1705 Longworth House Office Building
Duncan, John J., *Tenn*
Duncan, Robert B., *Oreg* 914 Lakeview Dr., Falls Church, Va.
Dwyer, Florence P. (Mrs.), *N.J.*
Dyal, Ken W., *Calif*
Edmondson, Ed, *Okla*
Edwards, Don, *Calif* 9201 Fox Meadow La., Potomac, Md.
Edwards, Edwin W., *La*
Edwards, Jack, *Ala*
Ellsworth, Robert F., *Kans*
Erlenborn, John N., *Ill*
Evans, Frank E., *Colo*
Everett, Robert A., *Tenn*
Evins, Joe L., *Tenn* 5044 Kilngle St.
Fallon, George H., *Md*
Farbstein, Leonard, *N.Y*
Farnsley, Charles P., *Ky*
Farnum, Billie S., *Mich*
Fascell, Dante B., *Fla*
Feighan, Michael A., *Ohio*
Findley, Paul, *Ill*
Fino, Paul A., *N.Y*
Fisher, O. C., *Tex* Calvert-Woodley
Flood, Daniel J., *Pa* The Congressional
Flynt, John J., Jr., *Ga*
Fogarty, John E., *R.I* 1235 New House Office Building
Foley, Thomas S., *Wash*
Ford, Gerald R., *Mich* 514 Crown View Dr., Alexandria, Va.
Ford, William D., *Mich*
Fountain, L. H., *N.C* The Westchester
Fraser, Donald M., *Minn*
Frelinghuysen, Peter H. B., *N.J.* 3014 N St.
Friedel, Samuel N., *Md*
Fulton, James G., *Pa*
Fulton, Richard, *Tenn*
Fuqua, Don, *Fla*
Gallagher, Cornelius E., *N.J.*
Garmatz, Edward A., *Md*
Gathings, E. C., *Ark*
Gettys, Tom S., *S.C*
Giaimo, Robert N., *Conn*
Gibbons, Sam, *Fla*
Gilbert, Jacob H., *N.Y*
Gilligan, John J., *Ohio*
Gonzalez, Henry B., *Tex* 200 C St. SE.
Goodell, Charles E., *N.Y* 3842 Macomb St.
Grabowski, Bernard F., *Conn.*
Gray, Kenneth J., *Ill*
Green, Edith (Mrs.), *Oreg.*
Green, William J., *Pa*
Greigg, Stanley L., *Iowa* 301 G St. SW.
Grider, George W., *Tenn* 119 7th St. SE.
Griffin, Robert P., *Mich*
Griffiths, Martha W. (Mrs.), *Mich.*
Gross, H. R., *Iowa*
Grover, James R., Jr., *N.Y*
Gubser, Charles S., *Calif*
Gurney, Edward J., *Fla*
Hagan, G. Elliott, *Ga*
Hagen, Harlan, *Calif*
Haley, James A., *Fla*
Hall, Durward G., *Mo*
Halleck, Charles A., *Ind* 4926 Upton St.
Halpern, Seymour, *N.Y*
Hamilton, Lee H., *Ind*
Hanley, James M., *N.Y*
Hanna, Richard T., *Calif*
Hansen, George, *Idaho*
Hansen, John R., *Iowa* 800 4th St. SW., Apt. S-701
Hansen, Julia Butler (Mrs.), *Wash.*
Hardy, Porter, Jr., *Va*
Harris, Oren, *Ark* 1627 Myrtle St.
Harsha, William H., *Ohio*
Harvey, James, *Mich*
Harvey, Ralph, *Ind*
Hathaway, William D., *Maine.*
Hawkins, Augustus F., *Calif.*
Hays, Wayne L., *Ohio* 3424 Barger Dr., Falls Church, Va.
Hébert, F. Edward, *La* 26 Cockrell St., Alexandria, Va.
Hechler, Ken, *W. Va*
Helstoski, Henry, *N.J*
Henderson, David N., *N.C*
Herlong, A. S., Jr., *Fla*
Hicks, Floyd V., *Wash*
Hollifield, Chet, *Calif*
Holland, Elmer J., *Pa*
Horton, Frank J., *N.Y*
Hosmer, Craig, *Calif*
Howard, James J., *N.J*
Hull, W. R., Jr., *Mo*
Hungate, William L., *Mo*
Huot, J. Oliva, *N.H*
Hutchinson, Edward, *Mich*
Ichord, Richard (Dick), *Mo.*
Irwin, Donald J., *Conn*
Jacobs, Andrew, Jr., *Ind*
Jarman, John, *Okla*
Jennings, W. Pat, *Va*
Joelson, Charles S., *N.J*
Johnson, Albert W., *Pa*
Johnson, Harold T., *Calif*
Johnson, Jed, Jr., *Okla*
Jonas, Charles Raper, *N.C*
Jones, Paul C., *Mo* 1111 Army-Navy Dr., Arlington, Va.
Jones, Robert E., *Ala*
Karsten, Frank M., *Mo*
Karth, Joseph E., *Minn*
Kastenmeier, Robert W., *Wis.*
Kee, James, *W. Va* 5441 16th Ave., Hyattsville, Md.
Keith, Hastings, *Mass* 4517 Wetherill Dr., Westmoreland Hills, Md.
Kelly, Edna F. (Mrs.), *N.Y.*
Keogh, Eugene J., *N.Y* The Mayflower
King, Carleton J., *N.Y*
King, Cecil R., *Calif*
King, David S., *Utah*
Kirwan, Michael J., *Ohio*
Kluczynski, John C., *Ill*
Kornegay, Horace R., *N.C*
Krebs, Paul J., *N.J*
Kunkel, John C., *Pa*
Laird, Melvin R., *Wis*
Landrum, Phil M., *Ga*
Langen, Odin, *Minn*
Latta, Delbert L., *Ohio*
Leggett, Robert L., *Calif*
Lennon, Alton, *N.C*

Mr. MANSFIELD. When would that recess go into operation?

The PRESIDING OFFICER. The recess would go into operation immediately after the motion was agreed to.

Mr. MANSFIELD. I wish to change my request.

I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock on Monday morning next.

The PRESIDING OFFICER. Is there objection?

Mr. MORSE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senate was in a quorum call. Unanimous consent was accorded the majority leader to make a parliamentary inquiry. The parliamentary inquiry has been answered.

Mr. MANSFIELD. Mr. President, I renew my unanimous-consent request that the Senate stand in adjournment until 10 o'clock on Monday morning next.

Mr. MORSE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The request is not debatable.

Mr. MANSFIELD. Mr. President, I withhold my request.

The PRESIDING OFFICER. The Senator from Montana has already moved to recess. The yeas and nays have been ordered. The unanimous-consent request of the Senator from Montana if agreed to would vitiate the motion to recess.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the yeas and nays on my motion to recess until 10 a.m. Monday be rescinded. I thought it had already been granted.

The PRESIDING OFFICER. Is there objection to rescinding the yeas and nays on the motion to recess?

Mr. MORSE. Mr. President, I am seeking to ask a question of the majority leader, if there is no objection.

I do not understand what the Senator from Montana asked for.

Was it the request of the Senator from Montana that we adjourn now, this morning, until Monday morning at 10 o'clock?

Mr. MANSFIELD. The Senator is correct. The reason for it is that the Senator from Montana endeavored to obtain the consent of the Senate that upon the completion of business today that it stand in recess until 10 o'clock Monday morning next. The request was objected to.

It is my understanding that the reason for the objection was based on the fact that certain Members of this body thought that 10 o'clock was too early. Personally, I do not think it is early enough. I think it is a reasonable time.

Mr. MORSE. I relied on the announcement that there would be a session today. I know that two or three speeches were planned to be given.

On the basis of that reliance I sent to the Press Gallery last night a speech for delivery today.

Those of us who planned to make speeches today could be accommodated when the business of the day is completed rather than having perpetrated upon us this early adjournment without an announcement for what the program is going to be today.

I hope that the majority leader will see fit to permit those of us who——

The PRESIDING OFFICER. The Senate will be in order.

Mr. MORSE. I would hope that the majority leader would see fit to let us take today for the period of time necessary for us to complete the scheduled speeches we have sent to the Press Gallery, relying on our understanding we were going to be able to make speeches today.

Mr. MANSFIELD. Mr. President, for the time being I withdraw my unanimous-consent request.

Mr. MORSE. That is very fair.

The PRESIDING OFFICER. Is there objection to withdrawing the unanimous-consent request?

Without objection, it is so ordered.

Is there objection to the request of the majority leader to withdraw the yeas and nays on the motion to recess?

Without objection, it is so ordered.

Does the majority leader withdraw his motion to recess?

Mr. MANSFIELD. Yes.

Mr. ALLOTT. There is no motion, I believe, to recess. There is a motion to adjourn.

The PRESIDING OFFICER. The proposed motion to adjourn was not in order at that time, and, therefore, not entertained. The quorum call had been withheld for a parliamentary inquiry and a motion to adjourn was not in order.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ERVIN. Does not a motion to adjourn take precedence over a motion to recess?

The PRESIDING OFFICER. The Senator is correct.

Mr. ERVIN. Did not the motion to adjourn supplant the motion to recess, as a matter of parliamentary practice?

The PRESIDING OFFICER. At that time there was a unanimous-consent request in operation. That is why the motion to adourn did not take precedence.

Mr. ERVIN. I understand that the majority leader asked unanimous consent to withdraw the yeas and nays and unanimous consent to withdraw the motion to recess. There has been no objection.

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Does the Senator from Montana renew his request for a quorum call?

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent, in view of the situation which has developed, that there be a morning hour today and that there be a time limitation of 3 minutes in connection with short speeches, statements, and the like.

Mr. ERVIN. Mr. President, reserving the right to object, I would like to propound an inquiry to the majority leader to ask him if he would be willing to make it clear by his unanimous-consent request on this point that the provision of the rule allowing motions to bring up bills for consideration will not be included in the unanimous-consent request.

Mr. MANSFIELD. Yes, indeed.

Mr. ERVIN. With that assurance, I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL INTRODUCED

A bill was introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. DIRKSEN:

S. 2853. A bill for the relief of Abraham Presser; to the Committee on the Judiciary.

CONCURRENT RESOLUTIONS

GREETINGS OF CONGRESS TO THE USO UPON THE OCCASION OF ITS 25TH ANNIVERSARY

Mr. RANDOLPH submitted the following concurrent resolution (S. Con. Res. 74), which was referred to the Committee on Armed Services:

Whereas the United Service Organizations, Incorporated, popularly known as the USO, is dedicated to serving the religious, spiritual, social, welfare, recreational, and educational needs of members of the Armed Forces of the United States; and

Whereas the USO has made an invaluable contribution to the morale and welfare of the men and women of our Armed Forces since the time of World War II by providing its welcome services throughout that time and during the Korean action and the cold war confrontations and by continuing its operations today in southeast Asia, Vietnam, and several other areas of the world; and

Whereas February 4, 1966, marks the twenty-fifth anniversary of the establishment of the USO: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States hereby extends to the USO its most cordial greetings and felicitations upon the occasion of the twenty-fifth anniversary of the establishment of the USO, and expresses its highest commendations for the invaluable contributions which the USO has made to the morale and welfare of our men and women in the Armed Forces throughout the world.

TERMINATION OF PROVISIONS OF THE SO-CALLED SOUTHEAST ASIA RESOLUTION

Mr. MORSE submitted a concurrent resolution (S. Con. Res. 75) to terminate the provisions of the so-called southeast Asia resolution, which was referred to the Committee on Foreign Relations.

(See the above concurrent resolution printed in full when submitted by Mr. MORSE, which appears under a separate heading.)

RESOLUTIONS

PRINTING OF ADDITIONAL COPIES OF A REPORT BY SENATOR MANSFIELD ENTITLED "THE VIETNAM CONFLICT: THE SUBSTANCE AND THE SHADOW"

Mr. MANSFIELD (for himself and Mr. AIKEN) submitted a resolution (S. Res.

216) to print additional copies of a report by Senator MANSFIELD entitled "The Vietnam Conflict: The Substance and the Shadow," which was considered and agreed to.

(See the above resolution printed in full when submitted by Mr. MANSFIELD, which appears under a separate heading.)

INVESTIGATION BY COMMITTEE ON FOREIGN RELATIONS OF ALL ASPECTS OF U.S. POLICIES IN VIETNAM

Mr. MORSE submitted a resolution (S. Res. 217) authorizing and directing the Committee on Foreign Relations to publicly investigate all aspects of U.S. policies in Vietnam, which was referred to the Committee on Foreign Relations.

(See the above resolution printed in full when submitted by Mr. MORSE, which appears under a separate heading.)

TIME FOR BILLS TO LIE ON THE DESK FOR ADDITIONAL COSPONSORS

Mr. CLARK. Mr. President, on behalf of the Senator from New York [Mr. JAVITS], I ask unanimous consent that Senate bills 2845 and 2846, relating to civil rights, introduced by the Senator from New York and other Senators on yesterday, be held at the desk until Friday, February 4, for additional cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS OF BILL

Under authority of the order of the Senate of January 24, 1966, the names of Mr. CASE, Mr. CLARK, Mr. SCOTT, and Mr. WILLIAMS of New Jersey were added as additional cosponsors of the bill (S. 2814) for the incorporation of the Fair Campaign Practices Committee, introduced by Mr. KUCHEL on January 24, 1966.

WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION CRITICIZES SCHOOL MILK CUTBACK

Mr. PROXMIRE. Mr. President, letters continue to pour in criticizing the Bureau of the Budget's decision to withhold $3 million in appropriated funds from the special milk program for schoolchildren. As I have pointed out previously this so-called economy move will not save one cent. Yet to school administrators around the country it poses a great problem. To the schoolchildren themselves it means less milk, especially for the poorer children.

Today I will read to my colleagues a letter from Mr. Gordon Gunderson, of the Wisconsin Department of Public Instruction. Mr. Gunderson is heading up the American School Food Service Association's legislative committee so I know his comments will be of real interest to other Senators.

Before I read the letter I would like to comment on the last paragraph which asks if anything can be done to override the Bureau of the Budget's action. Certainly something can be done. I am attempting by my daily floor speeches to focus the searchlight of public opinion on the Bureau's unwise action. I will work as a member of the Agriculture Subcommittee of the Senate Appropriations Committee to reverse this action with the help of our able chairman, Senator HOLLAND, who has expressed his opposition to the budget cut. Above all I will work to reverse the administration's announced intention to cut the program to $21 million in fiscal 1967—a move that would come very close to killing the program.

Mr. President, I read the letter from Mr. Gunderson:

THE STATE OF WISCONSIN,
DEPARTMENT OF PUBLIC INSTRUCTION,
Madison, Wis., December 28, 1965.

Hon. WILLIAM PROXMIRE,
Madison, Wis.

DEAR MR. PROXMIRE: Upon my return to the office this morning, I find a telegram from the area office of the U.S. Department of Agriculture informing me that it will be necessary to reduce reimbursement to schools for special milk served by 10 percent beginning with claims submitted for the month of February. This action is based upon instructions from the Bureau of the Budget to hold expenditures under the special milk program to $100 million. This is in the face of a final appropriation of $103 million which came about through your special efforts.

It is surprising to me that the Bureau of the Budget has the authority to withhold funds which have been appropriated by the Congress for a special purpose. Naturally, this is a very definite blow to school district finances at this time of year when budgets are well established, charges to children are all set, and the rates of reimbursement have been made a part of our contract with each district.

I am wondering if anything can be done to override the action of the Bureau of the Budget and release the total appropriation of $103 million. Anything you can do will certainly be appreciated by the school districts of Wisconsin.

Sincerely,
GORDON W. GUNDERSON,
Program Administrator.

BYRON JOHNSON SPELLS OUT DEVASTATING EFFECTS OF INTEREST RATE HIKES

Mr. PROXMIRE. Mr. President, one of the ablest men to serve in the Congress in recent years was Byron Johnson, of Colorado. Mr. Johnson is now a full professor of economics at the University of Colorado. Many Government and non-Government economists have told me that they regard Professor Johnson as a topflight as well as outspoken expert on monetary policy.

Recently I read a letter on the Senate floor from Professor Johnson to the Washington Post dealing concisely but generally with the recent action of the Federal Reserve Board in raising interest rates.

Professor Johnson has now written me his detailed views on this vital aspect of our economic policy.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DENVER, COLO.,
January 25, 1966.

Re your letter of January 14.

Hon. WILLIAM PROXMIRE,
U.S. Senate,
Committee on Banking and Currency,
Washington, D.C.

DEAR BILL: I am not surprised and very pleased that you share my concern about the higher discount rates which have touched off similar increases in the whole interest rates structure. I am attaching a few items I have previously written expressing my feelings on the topic. However, let me summarize my view of the key elements:

1. Was there a need for monetary restraint? Interest rates had been rising, the money supply had been rising at a fairly healthy rate. While unemployment had been falling, a rate approximately 4 percent is hardly cause for inflationary alarms. The Federal Reserve chose the worst possible time for the worst possible action. If the peace offensive succeeds and military spending can decline, we will face the much more complicated problem of climbing down the high interest ladder.

2. Was the action chosen by the Federal Reserve a contribution to an anti-inflation campaign, assuming such a campaign was needed? In my view the answer is negative. It touched off a new wave of borrowing. The Federal Reserve action will add $5 billion to the annual cost of borrowed money, roughly a 1-percent increase in the cost of living. It provided a justification for other price increases, including those which break the guidelines. It triggered inflation rather than resisted it.

3. Is the supply of loanable funds interest-elastic? Do higher interest rates significantly increase to the supply of loanable funds? If they would, this action would be a clear contribution.

Again my answer is essentially negative. The bulk of the supply arises out of the depreciation allowances, retained earnings, reserves built under retirement and other insurance contracts, and repayment of outstanding mortgages or other debts, none of which sources are interest-rate sensitive. High interest rates on savings are competitive devices for encouraging the small volume of consumer savings to prefer one kind of bank or credit union over another. Keynes' analysis of the reasons for savings are still essentially valid.

4. Do higher interest rates encourage more productive uses of credit?

Classical theory would reply that the most profitable uses of money will bid higher for it. In the marketplace, however, the higher rates are paid for short-term consumer credit where the size of the monthly payment is far more important than the interest rate, and this depends on the length of the contract. Yet the most productive use of credit is in the building of housing and social capital, where the rate of interest is very important because the loans are long-term loans. High interest rates divert money from these more productive uses, especially housing. Today the most inflationary demand function is new consumer credit. Given the fact that the war and postwar babies are now marrying and entering the housing market, we must prepare over the next 3 years for at least 20-percent increase in annual housing production. Yet the Wall Street Journal reports that the Federal Reserve action is now expected to shrink the 1966 housing market by at least 5 percent. This is a tragic commentary on the indifference of the Federal Reserve to the impact of its actions on the uses of loanable funds.

5. Are there better alternatives? Assuming that the time for restraint was arriving,